

Substitute Version Accepted by Committee

126th General Assembly
Regular Session
2005-2006

Sub. H. B. No. 66

A BILL

To amend sections 9.24, 101.68, 102.02, 105.41, 1
108.05, 109.54, 109.57, 109.60, 109.79, 109.91, 2
117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 3
121.37, 121.38, 122.011, 122.17, 122.171, 122.40, 4
122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 5
122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 6
122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 7
124.07, 124.321, 124.328, 125.041, 125.05, 125.09, 8
125.11, 125.831, 125.832, 126.25, 127.16, 131.02, 9
131.23, 133.09, 140.01, 140.08, 141.011, 141.04, 10
147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 11
150.07, 150.10, 173.26, 173.40, 173.99, 181.251, 12
181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 13
184.02, 305.171, 307.36, 307.37, 307.695, 307.76, 14
307.86, 307.88, 317.08, 317.36, 319.20, 319.302, 15
321.24, 323.01, 323.152, 325.31, 329.04, 329.051, 16
339.72, 339.88, 340.03, 340.16, 731.14, 731.141, 17
742.59, 901.43, 903.05, 905.32, 905.33, 905.331, 18
905.36, 905.37, 905.38, 905.381, 905.50, 905.501, 19
905.66, 907.16, 911.02, 913.02, 913.23, 915.02, 20
915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 21
923.46, 927.69, 1327.511, 1327.62, 1327.99, 22
1502.02, 1509.06, 1509.072, 1509.31, 1515.14, 23
1517.02, 1521.062, 1531.27, 1533.10, 1533.11, 24
1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 25
1548.06, 1711.53, 1713.03, 1751.03, 1751.89, 26

1901.26, 1901.31, 1907.24, 2113.041, 2151.352,	27
2151.416, 2152.43, 2152.44, 2152.74, 2303.201,	28
2305.234, 2329.66, 2743.191, 2744.05, 2744.08,	29
2901.07, 2913.40, 2921.13, 2923.25, 2929.13,	30
2929.14, 2967.05, 2967.13, 2971.05, 3107.10,	31
3111.04, 3119.54, 3121.12, 3121.50, 3125.18,	32
3301.079, 3301.0710, 3301.0711, 3301.0714,	33
3301.0715, 3301.12, 3301.16, 3301.311, 3301.32,	34
3301.86, 3301.88, 3302.03, 3311.059, 3313.207,	35
3313.208, 3313.209, 3313.489, 3313.975, 3313.976,	36
3313.977, 3313.978, 3313.98, 3314.01, 3314.013,	37
3314.015, 3314.02, 3314.021, 3314.03, 3314.031,	38
3314.032, 3314.033, 3314.06, 3314.074, 3314.08,	39
3314.13, 3315.17, 3315.18, 3315.37, 3316.06,	40
3316.16, 3317.01, 3317.013, 3317.02, 3317.021,	41
3317.022, 3317.023, 3317.024, 3317.026, 3317.027,	42
3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03,	43
3317.031, 3317.05, 3317.052, 3317.053, 3317.06,	44
3317.063, 3317.081, 3317.09, 3317.10, 3317.16,	45
3317.20, 3317.21, 3317.22, 3317.23, 3317.50,	46
3317.51, 3318.091, 3318.33, 3319.081, 3319.17,	47
3319.22, 3319.235, 3319.55, 3323.021, 3323.091,	48
3323.14, 3323.16, 3327.01, 3332.092, 3333.04,	49
3333.044, 3333.12, 3333.121, 3333.27, 3333.28,	50
3333.38, 3334.01, 3334.02, 3334.03, 3334.07,	51
3334.08, 3334.09, 3334.10, 3334.11, 3334.12,	52
3334.15, 3334.16, 3334.17, 3334.18, 3334.19,	53
3345.10, 3345.32, 3353.01, 3353.04, 3353.06,	54
3353.07, 3362.02, 3365.01, 3365.02, 3375.48,	55
3375.49, 3375.54, 3375.55, 3381.15, 3383.02,	56
3383.09, 3501.17, 3701.023, 3701.146, 3701.65,	57
3702.141, 3702.51, 3702.68, 3702.72, 3702.74,	58
3703.01, 3703.03, 3703.04, 3703.05, 3703.06,	59

3703.07, 3703.08, 3703.10, 3703.99, 3704.035,	60
3704.143, 3704.99, 3705.24, 3709.29, 3709.34,	61
3712.03, 3714.07, 3721.01, 3721.011, 3721.02,	62
3721.03, 3721.07, 3721.15, 3721.21, 3721.50,	63
3721.51, 3721.52, 3721.56, 3721.58, 3722.01,	64
3722.02, 3722.04, 3734.01, 3734.20, 3734.21,	65
3734.22, 3734.23, 3734.28, 3734.57, 3734.573,	66
3734.85, 3734.901, 3734.9010, 3735.27, 3743.01,	67
3743.02, 3743.04, 3743.05, 3743.06, 3743.15,	68
3743.17, 3743.18, 3743.19, 3743.57, 3743.59,	69
3743.65, 3743.75, 3745.11, 3745.12, 3746.04,	70
3746.071, 3748.07, 3748.13, 3773.34, 3773.38,	71
3773.39, 3773.40, 3773.57, 3781.07, 3781.10,	72
3781.102, 3793.09, 3901.021, 3901.17, 3901.78,	73
3903.14, 3903.42, 3905.04, 3905.36, 3905.40,	74
3923.27, 4112.12, 4115.03, 4115.032, 4115.071,	75
4115.32, 4115.34, 4117.10, 4117.24, 4123.27,	76
4301.10, 4301.43, 4303.182, 4501.01, 4501.37,	77
4503.103, 4503.471, 4503.48, 4503.50, 4503.53,	78
4503.571, 4503.59, 4503.73, 4503.85, 4503.91,	79
4505.06, 4506.07, 4511.191, 4511.75, 4517.01,	80
4519.01, 4519.02, 4519.09, 4561.17, 4561.18,	81
4561.21, 4703.15, 4705.09, 4709.05, 4713.02,	82
4723.32, 4723.63, 4731.65, 4731.71, 4736.11,	83
4736.12, 4740.14, 4753.03, 4753.06, 4753.071,	84
4753.08, 4753.09, 4755.48, 4775.04, 4905.10,	85
4905.54, 4905.95, 4911.02, 4911.18, 4973.171,	86
5101.16, 5101.181, 5101.21, 5101.241, 5101.26,	87
5101.31, 5101.35, 5101.36, 5101.46, 5101.47,	88
5101.75, 5101.752, 5101.80, 5101.801, 5101.821,	89
5104.01, 5104.02, 5104.32, 5104.38, 5107.05,	90
5107.10, 5107.26, 5107.30, 5107.58, 5110.01,	91
5110.05, 5110.352, 5110.39, 5111.011, 5111.019,	92

5111.0112, 5111.02, 5111.021, 5111.022, 5111.023,	93
5111.025, 5111.042, 5111.06, 5111.082, 5111.11,	94
5111.111, 5111.113, 5111.16, 5111.17, 5111.19,	95
5111.20, 5111.204, 5111.21, 5111.22, 5111.221,	96
5111.23, 5111.231, 5111.235, 5111.24, 5111.241,	97
5111.25, 5111.251, 5111.255, 5111.257, 5111.26,	98
5111.261, 5111.263, 5111.264, 5111.27, 5111.28,	99
5111.29, 5111.291, 5111.30, 5111.31, 5111.32,	100
5111.33, 5111.62, 5111.81, 5111.85, 5111.87,	101
5111.871, 5111.88, 5111.911, 5111.97, 5111.99,	102
5112.03, 5112.08, 5112.17, 5112.30, 5112.31,	103
5115.20, 5115.22, 5115.23, 5119.61, 5120.09,	104
5120.16, 5120.48, 5120.51, 5121.01, 5121.02,	105
5121.03, 5121.04, 5121.05, 5121.06, 5121.061,	106
5121.07, 5121.08, 5121.09, 5121.10, 5121.11,	107
5121.12, 5121.21, 5122.03, 5122.31, 5123.01,	108
5123.045, 5123.046, 5123.047, 5123.049, 5123.0412,	109
5123.34, 5123.41, 5123.701, 5123.71, 5123.76,	110
5126.01, 5126.035, 5126.042, 5126.054, 5126.055,	111
5126.056, 5126.057, 5126.12, 5139.01, 5139.36,	112
5153.16, 5502.01, 5531.10, 5540.01, 5540.09,	113
5552.01, 5703.052, 5703.053, 5703.26, 5703.47,	114
5703.50, 5703.70, 5703.80, 5703.99, 5705.091,	115
5705.19, 5705.391, 5711.16, 5711.21, 5711.22,	116
5711.28, 5715.24, 5719.041, 5725.01, 5725.19,	117
5727.01, 5727.02, 5727.06, 5727.08, 5727.10,	118
5727.11, 5727.111, 5727.12, 5727.23, 5727.47,	119
5727.81, 5727.82, 5727.84, 5727.85, 5727.99,	120
5728.01, 5728.02, 5728.03, 5728.04, 5728.06,	121
5728.08, 5728.99, 5729.08, 5731.01, 5731.05,	122
5731.131, 5731.14, 5731.18, 5731.181, 5731.22,	123
5731.23, 5731.39, 5731.41, 5731.99, 5733.01,	124
5733.065, 5733.066, 5733.33, 5733.351, 5733.352,	125

5733.40, 5733.41, 5733.49, 5733.98, 5733.99,	126
5735.99, 5737.03, 5739.01, 5739.02, 5739.021,	127
5739.025, 5739.026, 5739.029, 5739.03, 5739.033,	128
5739.034, 5739.035, 5739.09, 5739.10, 5739.16,	129
5739.17, 5739.99, 5741.02, 5741.16, 5741.99,	130
5743.01, 5743.02, 5743.03, 5743.05, 5743.071,	131
5743.08, 5743.10, 5743.111, 5743.112, 5743.14,	132
5743.15, 5743.16, 5743.18, 5743.19, 5743.20,	133
5743.32, 5743.33, 5743.99, 5747.01, 5747.02,	134
5747.05, 5747.08, 5747.212, 5747.331, 5747.70,	135
5747.80, 5747.98, 5747.99, 5749.02, 5907.15,	136
5919.33, 5920.01, 6109.21, 6111.02, 6121.04, and	137
6123.04; to amend, for the purpose of adopting new	138
section numbers as indicated in parentheses,	139
sections 181.251 (5502.63), 181.51 (5502.61),	140
181.52 (5502.62), 181.54 (5502.64), 181.55	141
(5502.65), 181.56 (5502.66), 3314.031 (3314.21),	142
3314.032 (3314.22), 3314.033 (3314.23), 3314.034	143
(3314.24), 3317.21 (3318.47), 3317.22 (3318.48),	144
3317.23 (3318.49), 4115.21 (4115.16), 4723.63	145
(4723.91), 5101.75 (173.42), 5101.752 (173.43),	146
5111.02 (5111.021), 5111.021 (5111.022), 5111.022	147
(5111.023), 5111.023 (5111.0115), 5111.112	148
(5111.113), 5111.113 (5111.114), 5111.231	149
(5111.232), 5111.257 (5111.258), 5111.81	150
(5111.084), 5111.88 (5111.97), 5111.97 (5111.86),	151
5121.01 (5121.02), 5121.02 (5121.03), and 5121.03	152
(5121.01); to enact new sections 3317.012,	153
3353.02, 3353.03, 3704.14, 4723.63, 5111.02,	154
5111.112, 5111.231, 5111.257, 5111.262, 5111.88,	155
and 5123.048, and sections 101.391, 103.132,	156
120.36, 121.373, 121.381, 121.382, 121.403,	157
122.075, 122.083, 122.12, 122.121, 125.18, 125.25,	158

125.60, 125.601, 125.602, 125.603, 125.604,	159
125.605, 125.606, 125.607, 125.608, 125.609,	160
125.6010, 125.6011, 125.6012, 131.51, 153.02,	161
173.39, 173.391, 173.392, 173.393, 173.44, 173.45,	162
173.46, 173.47, 173.48, 173.49, 173.50, 306.331,	163
341.192, 901.44, 907.111, 1327.70, 1327.71,	164
1547.721, 1547.722, 1547.723, 1547.724, 1547.725,	165
1547.726, 1751.271, 2151.282, 2151.652, 2305.2341,	166
2307.65, 2744.082, 2913.401, 2927.023, 3125.191,	167
3302.10, 3310.01, 3310.02, 3310.03, 3310.04,	168
3310.05, 3310.06, 3310.07, 3310.08, 3310.09,	169
3310.10, 3310.13, 3310.14, 3310.16, 3310.17,	170
3314.016, 3314.061, 3314.084, 3314.12, 3314.18,	171
3314.25, 3314.26, 3314.27, 3314.28, 3314.35,	172
3314.36, 3316.043, 3317.016, 3317.017, 3317.201,	173
3318.18, 3319.06, 3319.0810, 3319.172, 3323.20,	174
3323.30, 3323.31, 3323.32, 3323.33, 3324.10,	175
3325.10, 3325.11, 3325.12, 3325.15, 3325.16,	176
3325.17, 3333.047, 3333.122, 3333.162, 3345.02,	177
3354.25, 3701.073, 3702.83, 3704.144, 3705.242,	178
3714.073, 3715.04, 3721.032, 3721.541, 3721.561,	179
3745.015, 3745.114, 3770.061, 3781.191, 3903.421,	180
4501.07, 4506.101, 4506.161, 4115.36, 4117.103,	181
4723.61, 4723.62, 4723.621, 4723.64, 4723.65,	182
4723.66, 4723.67, 4723.68, 4723.69, 4905.261,	183
4911.021, 5101.07, 5101.071, 5101.163, 5101.244,	184
5101.461, 5101.802, 5101.803, 5101.93, 5107.301,	185
5111.0114, 5111.027, 5111.028, 5111.061, 5111.062,	186
5111.083, 5111.084, 5111.10, 5111.161, 5111.162,	187
5111.163, 5111.164, 5111.165, 5111.176, 5111.191,	188
5111.222, 5111.234, 5111.242, 5111.254, 5111.256,	189
5111.265, 5111.266, 5111.851, 5111.852, 5111.853,	190
5111.854, 5111.855, 5111.856, 5111.881, 5111.882,	191

5111.883, 5111.884, 5111.885, 5111.886, 5111.887,	192
5111.888, 5111.889, 5111.89, 5111.891, 5111.892,	193
5111.893, 5111.914, 5111.915, 5111.971, 5111.98,	194
5112.341, 5121.30, 5121.31, 5121.32, 5121.33,	195
5121.34, 5121.35, 5121.36, 5121.37, 5121.38,	196
5121.39, 5121.40, 5121.41, 5121.42, 5121.43,	197
5121.44, 5121.45, 5121.46, 5121.47, 5121.49,	198
5121.50, 5121.51, 5121.52, 5121.53, 5121.54,	199
5121.55, 5123.16, 5540.032, 5703.057, 5707.031,	200
5725.32, 5727.031, 5727.241, 5727.812, 5729.032,	201
5739.012, 5739.36, 5743.031, 5743.072, 5743.71,	202
5747.056, 5751.01, 5751.011, 5751.012, 5751.013,	203
5751.02, 5751.03, 5751.031, 5751.032, 5751.033,	204
5751.04, 5751.05, 5751.051, 5751.06, 5751.07,	205
5751.08, 5751.081, 5751.09, 5751.10, 5751.11,	206
5751.12, 5751.20, 5751.21, 5751.22, 5751.23,	207
5751.31, 5751.50, 5751.51, 5751.52, 5751.53,	208
5751.98, 5751.99, 5919.31, 5919.341, 6111.0210,	209
6111.0211, 6111.0212, and 6111.0213; and to repeal	210
sections 181.53, 339.77, 742.36, 1541.221,	211
3301.31, 3301.33, 3301.34, 3301.35, 3301.36,	212
3301.37, 3301.38, 3301.80, 3301.85, 3301.87,	213
3311.40, 3317.012, 3317.0212, 3317.0213, 3353.02,	214
3353.03, 3501.141, 3704.14, 3704.142, 3704.17,	215
3721.511, 3901.41, 3901.781, 3901.782, 3901.783,	216
3901.784, 4115.16, 4519.06, 4519.07, 5101.751,	217
5101.753, 5101.754, 5111.041, 5111.205, 5111.262,	218
5111.34, 5115.10, 5115.11, 5115.12, 5115.13,	219
5115.14, 5123.041, 5123.048, 5731.20, 5733.122,	220
and 6111.028 of the Revised Code; to amend	221
Sections 16.09, 19.01, 20.01, 22.03, 22.04, 23.02,	222
23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub.	223
H.B. 16 of the 126th General Assembly; to amend	224

Sections 203.03.09, 203.03.10, and 203.06.15 of 225
Am. Sub. H.B. 68 of the 126th General Assembly; to 226
amend Section 41.36 of Am. Sub. H.B. 95 of the 227
125th General Assembly and to amend Section 41.36 228
of Am. Sub. H.B. 95 of the 125th General Assembly 229
for the purpose of codifying it as section 3323.19 230
of the Revised Code; to amend Section 14 of Sub. 231
H.B. 434 of the 125th General Assembly; to amend 232
Section 4 of Am. Sub. H.B. 516 of the 125th 233
General Assembly; to amend Sections 26.01 and 74 234
of Am. Sub. S.B. 189 of the 125th General 235
Assembly; to amend Section 22 of Am. Sub. S.B. 189 236
of the 125th General Assembly, as amended by Am. 237
Sub. H.B. 16 of the 126th General Assembly; to 238
amend Section 3 of Am. Sub. H.B. 621 of the 122nd 239
General Assembly, as subsequently amended; to 240
amend Section 153 of Am. Sub. H.B. 117 of the 241
121st General Assembly, as subsequently amended; 242
to amend Section 5 of Am. Sub. S.B. 50 of the 243
121st General Assembly, as subsequently amended; 244
and to repeal Sections 59.19, 89.17, and 147 of 245
Am. Sub. H.B. 95 of the 125th General Assembly to 246
make operating appropriations for the biennium 247
beginning July 1, 2005 and ending June 30, 2007, 248
and to provide authorization and conditions for 249
the operation of state programs, and to repeal 250
Section 553.01 of this act on December 16, 2005. 251

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

Section 101.01. That sections 9.24, 101.68, 102.02, 108.05, 252
109.54, 109.57, 109.60, 109.79, 109.91, 117.10, 120.06, 120.13, 253

120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171,	254
122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751,	255
122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951,	256
123.01, 123.152, 123.17, 124.07, 124.321, 124.328, 125.041,	257
125.05, 125.09, 125.11, 125.831, 125.832, 126.25, 127.16, 131.02,	258
131.23, 133.09, 140.01, 140.08, 141.011, 141.04, 147.05, 147.10,	259
147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 173.26, 173.40,	260
173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28,	261
184.02, 305.171, 307.37, 307.695, 307.76, 307.86, 307.88, 317.08,	262
317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04,	263
329.051, 339.72, 339.88, 340.03, 340.16, 731.14, 731.141, 742.59,	264
901.43, 903.05, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38,	265
905.381, 905.50, 905.501, 905.66, 907.16, 911.02, 913.02, 913.23,	266
915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46,	267
927.69, 1327.511, 1327.62, 1327.99, 1502.02, 1509.06, 1509.072,	268
1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11,	269
1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 1711.53,	270
1713.03, 1751.03, 1751.89, 1901.26, 1901.31, 1907.24, 2113.041,	271
2151.352, 2151.416, 2152.43, 2152.44, 2152.74, 2303.201, 2305.234,	272
2329.66, 2743.191, 2744.05, 2744.08, 2901.07, 2913.40, 2921.13,	273
2923.25, 2929.13, 2929.14, 2967.05, 2967.13, 2971.05, 3107.10,	274
3111.04, 3119.54, 3121.12, 3121.50, 3125.18, 3301.079, 3301.0710,	275
3301.0711, 3301.0714, 3301.0715, 3301.12, 3301.16, 3301.311,	276
3301.32, 3301.86, 3301.88, 3302.03, 3311.059, 3313.207, 3313.208,	277
3313.209, 3313.489, 3313.975, 3313.976, 3313.977, 3313.978,	278
3313.98, 3314.01, 3314.013, 3314.015, 3314.02, 3314.021, 3314.03,	279
3314.031, 3314.032, 3314.033, 3314.06, 3314.074, 3314.08, 3314.13,	280
3315.17, 3315.18, 3315.37, 3316.06, 3316.16, 3317.01, 3317.013,	281
3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.026,	282
3317.027, 3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03,	283
3317.031, 3317.05, 3317.052, 3317.053, 3317.06, 3317.063,	284
3317.081, 3317.09, 3317.10, 3317.16, 3317.20, 3317.21, 3317.22,	285
3317.23, 3317.50, 3317.51, 3318.091, 3318.33, 3319.081, 3319.17,	286

3319.22, 3319.235, 3319.55, 3323.021, 3323.091, 3323.14, 3323.16,	287
3327.01, 3332.092, 3333.04, 3333.044, 3333.12, 3333.121, 3333.27,	288
3333.28, 3333.38, 3334.01, 3334.02, 3334.03, 3334.07, 3334.08,	289
3334.09, 3334.10, 3334.11, 3334.12, 3334.15, 3334.16, 3334.17,	290
3334.18, 3334.19, 3345.10, 3345.32, 3353.01, 3353.04, 3353.06,	291
3353.07, 3362.02, 3365.01, 3365.02, 3375.48, 3375.49, 3375.54,	292
3375.55, 3381.15, 3383.02, 3383.09, 3501.17, 3701.023, 3701.146,	293
3701.65, 3702.141, 3702.51, 3702.68, 3702.71, 3702.74, 3703.01,	294
3703.03, 3703.04, 3703.05, 3703.06, 3703.07, 3703.08, 3703.10,	295
3703.99, 3704.035, 3704.143, 3704.99, 3705.24, 3709.29, 3709.34,	296
3712.03, 3714.07, 3721.01, 3721.011, 3721.02, 3721.03, 3721.07,	297
3721.15, 3721.21, 3721.50, 3721.51, 3721.52, 3721.56, 3721.58,	298
3722.01, 3722.02, 3722.04, 3734.01, 3734.20, 3734.21, 3734.22,	299
3734.23, 3734.28, 3734.57, 3734.573, 3734.85, 3734.901, 3734.9010,	300
3735.27, 3743.01, 3743.02, 3743.04, 3743.05, 3743.06, 3743.15,	301
3743.17, 3743.18, 3743.19, 3743.57, 3743.59, 3743.65, 3743.75,	302
3745.11, 3745.12, 3746.04, 3746.071, 3748.07, 3748.13, 3773.34,	303
3773.38, 3773.39, 3773.40, 3773.57, 3781.07, 3781.10, 3781.102,	304
3793.09, 3901.021, 3901.17, 3901.78, 3903.14, 3903.42, 3905.04,	305
3905.36, 3905.40, 3923.27, 4112.12, 4115.03, 4115.032, 4115.071,	306
4115.32, 4115.34, 4117.10, 4117.24, 4123.27, 4301.10, 4301.43,	307
4303.182, 4501.01, 4501.37, 4503.103, 4503.471, 4503.48, 4503.50,	308
4503.53, 4503.571, 4503.59, 4503.73, 4503.85, 4503.91, 4505.06,	309
4506.07, 4511.191, 4511.75, 4517.01, 4519.01, 4519.02, 4519.09,	310
4561.17, 4561.18, 4561.21, 4703.15, 4705.09, 4709.05, 4713.02,	311
4723.32, 4723.63, 4731.65, 4731.71, 4736.11, 4736.12, 4740.14,	312
4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 4755.48, 4775.04,	313
4905.10, 4905.54, 4905.95, 4911.02, 4911.18, 4973.171, 5101.16,	314
5101.181, 5101.21, 5101.241, 5101.26, 5101.31, 5101.35, 5101.36,	315
5101.46, 5101.47, 5101.75, 5101.752, 5101.80, 5101.801, 5101.821,	316
5104.01, 5104.02, 5104.32, 5104.38, 5107.05, 5107.10, 5107.26,	317
5107.30, 5107.58, 5110.01, 5110.05, 5110.352, 5110.39, 5111.011,	318
5111.019, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.023,	319

5111.025, 5111.042, 5111.06, 5111.082, 5111.11, 5111.111, 320
5111.113, 5111.16, 5111.17, 5111.19, 5111.20, 5111.204, 5111.21, 321
5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 322
5111.25, 5111.251, 5111.255, 5111.257, 5111.26, 5111.261, 323
5111.263, 5111.264, 5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 324
5111.31, 5111.32, 5111.33, 5111.62, 5111.81, 5111.85, 5111.87, 325
5111.871, 5111.88, 5111.911, 5111.97, 5111.99, 5112.03, 5112.08, 326
5112.17, 5112.30, 5112.31, 5115.20, 5115.22, 5115.23, 5119.61, 327
5120.09, 5120.16, 5120.48, 5120.51, 5121.01, 5121.02, 5121.03, 328
5121.04, 5121.05, 5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 329
5121.10, 5121.11, 5121.12, 5121.21, 5122.03, 5122.31, 5123.01, 330
5123.045, 5123.046, 5123.047, 5123.049, 5123.0412, 5123.34, 331
5123.41, 5123.701, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 332
5126.054, 5126.055, 5126.056, 5126.057, 5126.12, 5139.01, 5139.36, 333
5153.16, 5502.01, 5531.10, 5540.01, 5540.09, 5552.01, 5703.052, 334
5703.053, 5703.26, 5703.47, 5703.50, 5703.70, 5703.80, 5703.99, 335
5705.091, 5705.19, 5705.391, 5711.16, 5711.21, 5711.22, 5711.28, 336
5715.24, 5719.041, 5725.01, 5725.19, 5727.01, 5727.02, 5727.06, 337
5727.08, 5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 5727.47, 338
5727.81, 5727.82, 5727.84, 5727.85, 5727.99, 5728.01, 5728.02, 339
5728.03, 5728.04, 5728.06, 5728.08, 5728.99, 5729.08, 5731.01, 340
5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 341
5731.39, 5731.41, 5731.99, 5733.01, 5733.065, 5733.066, 5733.33, 342
5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 5733.99, 343
5735.99, 5737.03, 5739.01, 5739.02, 5739.021, 5739.025, 5739.026, 344
5739.03, 5739.033, 5739.034, 5739.035, 5739.09, 5739.10, 5739.16, 345
5739.17, 5739.99, 5741.02, 5741.16, 5741.99, 5743.01, 5743.02, 346
5743.03, 5743.05, 5743.071, 5743.08, 5743.10, 5743.111, 5743.112, 347
5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.32, 348
5743.33, 5743.99, 5747.01, 5747.02, 5747.05, 5747.08, 5747.212, 349
5747.331, 5747.70, 5747.80, 5747.98, 5747.99, 5749.02, 5907.15, 350
5919.33, 5920.01, 6109.21, 6111.02, 6121.04, and 6123.04 be 351
amended; that sections 181.251 (5502.63), 181.51 (5502.61), 181.52 352

(5502.62), 181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 353
3314.031 (3314.21), 3314.032 (3314.22), 3314.033 (3314.23), 354
3314.034 (3314.24), 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 355
(3318.49), 4115.21 (4115.16), 4723.63 (4723.91), 5101.75 (173.42), 356
5101.752 (173.43), 5111.02 (5111.021), 5111.021 (5111.022), 357
5111.022 (5111.023), 5111.023 (5111.0115), 5111.112 (5111.113), 358
5111.113 (5111.114), 5111.231 (5111.232), 5111.257 (5111.258), 359
5111.81 (5111.085), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 360
(5121.02), 5121.02 (5121.03), and 5121.03 (5121.01) be amended for 361
the purpose of adopting new section numbers as indicated in 362
parentheses; that Section 41.36 of Am. Sub. H.B. 95 of the 125th 363
General Assembly be amended and that Section 41.36 of Am. Sub. 364
H.B. 95 of the 125th General Assembly be amended for the purpose 365
of codifying it as section 3323.19 of the Revised Code; that new 366
sections 3317.012, 3353.02, 3353.03, 3704.14, 4723.63, 5111.02, 367
5111.112, 5111.231, 5111.257, 5111.262, 5111.88, and 5123.048 and 368
sections 101.391, 103.132, 120.36, 121.373, 121.381, 121.382, 369
121.403, 122.075, 122.083, 122.12, 122.121, 125.18, 125.25, 370
125.60, 125.601, 125.602, 125.603, 125.604, 125.605, 125.606, 371
125.607, 125.608, 125.609, 125.6010, 125.6011, 125.6012, 131.51, 372
153.02, 173.39, 173.391, 173.392, 173.393, 173.44, 173.45, 173.46, 373
173.47, 173.48, 173.49, 173.50, 306.331, 341.192, 901.44, 907.111, 374
1327.70, 1327.71, 1547.721, 1547.722, 1547.723, 1547.724, 375
1547.725, 1547.726, 1751.271, 2151.282, 2151.652, 2305.2341, 376
2307.65, 2744.082, 2913.401, 2927.023, 3125.191, 3302.10, 3310.01, 377
3310.02, 3310.03, 3310.04, 3310.05, 3310.06, 3310.07, 3310.08, 378
3310.09, 3310.10, 3310.13, 3310.14, 3310.16, 3310.17, 3314.016, 379
3314.061, 3314.084, 3314.12, 3314.18, 3314.25, 3314.26, 3314.27, 380
3314.28, 3314.35, 3314.36, 3316.043, 3317.016, 3317.017, 3317.201, 381
3318.18, 3319.06, 3319.0810, 3319.172, 3323.20, 3323.30, 3323.31, 382
3323.32, 3323.33, 3324.10, 3325.10, 3325.11, 3325.12, 3325.15, 383
3325.16, 3325.17, 3333.047, 3333.122, 3333.162, 3345.02, 3354.25, 384
3701.073, 3702.83, 3704.144, 3705.242, 3714.073, 3715.04, 385

3721.032, 3721.541, 3721.561, 3745.015, 3745.114, 3770.061, 386
3781.191, 3903.421, 4115.36, 4117.103, 4501.07, 4506.101, 387
4506.161, 4723.61, 4723.62, 4723.621, 4723.64, 4723.65, 4723.66, 388
4723.67, 4723.68, 4723.69, 4905.261, 4911.021, 5101.07, 5101.071, 389
5101.163, 5101.244, 5101.461, 5101.802, 5101.803, 5101.93, 390
5107.301, 5111.0114, 5111.027, 5111.028, 5111.061, 5111.062, 391
5111.083, 5111.084, 5111.10, 5111.161, 5111.162, 5111.163, 392
5111.164, 5111.165, 5111.176, 5111.191, 5111.222, 5111.234, 393
5111.242, 5111.254, 5111.256, 5111.265, 5111.266, 5111.851, 394
5111.852, 5111.853, 5111.854, 5111.855, 5111.856, 5111.881, 395
5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 396
5111.888, 5111.889, 5111.89, 5111.891, 5111.892, 5111.893, 397
5111.914, 5111.915, 5111.971, 5111.98, 5112.341, 5121.30, 5121.31, 398
5121.32, 5121.33, 5121.34, 5121.35, 5121.36, 5121.37, 5121.38, 399
5121.39, 5121.40, 5121.41, 5121.42, 5121.43, 5121.44, 5121.45, 400
5121.46, 5121.47, 5121.49, 5121.50, 5121.51, 5121.52, 5121.53, 401
5121.54, 5121.55, 5123.16, 5540.032, 5703.057, 5707.031, 5725.32, 402
5727.031, 5727.241, 5727.812, 5729.032, 5739.012, 5739.36, 403
5743.031, 5743.072, 5743.71, 5747.056, 5751.01, 5751.011, 404
5751.012, 5751.013, 5751.02, 5751.03, 5751.031, 5751.032, 405
5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 406
5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 5751.21, 407
5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 408
5751.98, 5751.99, 5919.31, 5919.341, 6111.0210, 6111.0211, 409
6111.0212, and 6111.0213 of the Revised Code be enacted to read as 410
follows: 411

Sec. 9.24. (A) Except as may be allowed under division (F) of 412
this section, no state agency and no political subdivision shall 413
award a contract as described in division (G)(1) of this section 414
for goods, services, or construction, paid for in whole or in part 415
with state funds, to a person against whom a finding for recovery 416
has been issued by the auditor of state on and after January 1, 417

2001, if the finding for recovery is unresolved. 418

A contract is considered to be awarded when it is entered 419
into or executed, irrespective of whether the parties to the 420
contract have exchanged any money. 421

(B) For purposes of this section, a finding for recovery is 422
unresolved unless one of the following criteria applies: 423

(1) The money identified in the finding for recovery is paid 424
in full to the state agency or political subdivision to whom the 425
money was owed; 426

(2) The debtor has entered into a repayment plan that is 427
approved by the attorney general and the state agency or political 428
subdivision to whom the money identified in the finding for 429
recovery is owed. A repayment plan may include a provision 430
permitting a state agency or political subdivision to withhold 431
payment to a debtor for goods, services, or construction provided 432
to or for the state agency or political subdivision pursuant to a 433
contract that is entered into with the debtor after the date the 434
finding for recovery was issued. 435

(3) The attorney general waives a repayment plan described in 436
division (B)(2) of this section for good cause; 437

(4) The debtor and state agency or political subdivision to 438
whom the money identified in the finding for recovery is owed have 439
agreed to a payment plan established through an enforceable 440
settlement agreement. 441

(5) The state agency or political subdivision desiring to 442
enter into a contract with a debtor certifies, and the attorney 443
general concurs, that all of the following are true: 444

(a) Essential services the state agency or political 445
subdivision is seeking to obtain from the debtor cannot be 446
provided by any other person besides the debtor; 447

(b) Awarding a contract to the debtor for the essential 448
services described in division (B)(5)(a) of this section is in the 449
best interest of the state; 450

(c) Good faith efforts have been made to collect the money 451
identified in the finding of recovery. 452

(6) The debtor has commenced an action to contest the finding 453
for recovery and a final determination on the action has not yet 454
been reached. 455

(C) The attorney general shall submit an initial report to 456
the auditor of state, not later than December 1, 2003, indicating 457
the status of collection for all findings for recovery issued by 458
the auditor of state for calendar years 2001, 2002, and 2003. 459
Beginning on January 1, 2004, the attorney general shall submit to 460
the auditor of state, on the first day of every January, April, 461
July, and October, a list of all findings for recovery that have 462
been resolved in accordance with division (B) of this section 463
during the calendar quarter preceding the submission of the list 464
and a description of the means of resolution. The attorney general 465
shall notify the auditor of state when a judgment is issued 466
against an entity described in division (F)(1) of this section. 467

(D) The auditor of state shall maintain a database, 468
accessible to the public, listing persons against whom an 469
unresolved finding for recovery has been issued, and the amount of 470
the money identified in the unresolved finding for recovery. The 471
auditor of state shall have this database operational on or before 472
January 1, 2004. The initial database shall contain the 473
information required under this division for calendar years 2001, 474
2002, and 2003. 475

Beginning January 15, 2004, the auditor of state shall update 476
the database by the fifteenth day of every January, April, July, 477
and October to reflect resolved findings for recovery that are 478

reported to the auditor of state by the attorney general on the 479
first day of the same month pursuant to division (C) of this 480
section. 481

(E) Before awarding a contract as described in division 482
(G)(1) of this section for goods, services, or construction, paid 483
for in whole or in part with state funds, a state agency or 484
political subdivision shall verify that the person to whom the 485
state agency or political subdivision plans to award the contract 486
has no unresolved finding for recovery issued against the person. 487
A state agency or political subdivision shall verify that the 488
person does not appear in the database described in division (D) 489
of this section or shall obtain other proof that the person has no 490
unresolved finding for recovery issued against the person. 491

(F) The prohibition of division (A) of this section and the 492
requirement of division (E) of this section do not apply with 493
respect to the companies or agreements described in divisions 494
(F)(1) and (2) of this section, or in the circumstance described 495
in division (F)(3) of this section. 496

(1) A bonding company or a company authorized to transact the 497
business of insurance in this state, a self-insurance pool, joint 498
self-insurance pool, risk management program, or joint risk 499
management program, unless a court has entered a final judgment 500
against the company and the company has not yet satisfied the 501
final judgment. 502

(2) To medicaid provider agreements under Chapter 5111. of 503
the Revised Code ~~or payments or provider agreements under~~ 504
~~disability assistance medical assistance established under Chapter~~ 505
~~5115. of the Revised Code.~~ 506

(3) When federal law dictates that a specified entity provide 507
the goods, services, or construction for which a contract is being 508
awarded, regardless of whether that entity would otherwise be 509

prohibited from entering into the contract pursuant to this 510
section. 511

(G)(1) This section applies only to contracts for goods, 512
services, or construction that satisfy the criteria in either 513
division (G)(1)(a) or (b) of this ~~division~~ section. This section 514
may apply to contracts for goods, services, or construction that 515
satisfy the criteria in division (G)(1)(c) of this section, 516
provided that the contracts also satisfy the criteria in either 517
division (G)(1)(a) or (b) of this ~~division~~ section. 518

(a) The cost for the goods, services, or construction 519
provided under the contract is estimated to exceed twenty-five 520
thousand dollars. 521

(b) The aggregate cost for the goods, services, or 522
construction provided under multiple contracts entered into by the 523
particular state agency and a single person or the particular 524
political subdivision and a single person within the fiscal year 525
preceding the fiscal year within which a contract is being entered 526
into by that same state agency and the same single person or the 527
same political subdivision and the same single person, exceeded 528
fifty thousand dollars. 529

(c) The contract is a renewal of a contract previously 530
entered into and renewed pursuant to that preceding contract. 531

(2) This section does not apply to employment contracts. 532

(H) As used in this section: 533

(1) "State agency" has the same meaning as in section 9.66 of 534
the Revised Code. 535

(2) "Political subdivision" means a political subdivision as 536
defined in section 9.82 of the Revised Code that has received more 537
than fifty thousand dollars of state money in the current fiscal 538
year or the preceding fiscal year. 539

(3) "Finding for recovery" means a determination issued by 540
the auditor of state, contained in a report the auditor of state 541
gives to the attorney general pursuant to section 117.28 of the 542
Revised Code, that public money has been illegally expended, 543
public money has been collected but not been accounted for, public 544
money is due but has not been collected, or public property has 545
been converted or misappropriated. 546

(4) "Debtor" means a person against whom a finding for 547
recovery has been issued. 548

(5) "Person" means the person named in the finding for 549
recovery. 550

(6) "State money" does not include funds the state receives 551
from another source and passes through to a political subdivision. 552

Sec. 101.391. (A) There is hereby created the joint 553
legislative committee on medicaid technology and reform. The 554
committee may review or study any matter that it considers 555
relevant to the operation of the medicaid program established 556
under Chapter 5111. of the Revised Code, with priority given to 557
the study or review of mechanisms to enhance the program's 558
effectiveness through improved technology systems and program 559
reform. 560

(B) The committee shall consist of five members of the house 561
of representatives appointed by the speaker of the house of 562
representatives and five members of the senate appointed by the 563
president of the senate. Not more than three members appointed by 564
the speaker of the house of representatives and not more than 565
three members appointed by the president of the senate may be of 566
the same political party. 567

Each member of the committee shall hold office during the 568
general assembly in which the member is appointed and until a 569

successor has been appointed, notwithstanding the adjournment sine 570
die of the general assembly in which the member was appointed or 571
the expiration of the member's term as a member of the general 572
assembly. Any vacancies occurring among the members of the 573
committee shall be filled in the manner of the original 574
appointment. 575

(C) The committee has the same powers as other standing or 576
select committees of the general assembly. The committee may 577
employ an executive director. 578

Sec. 101.68. (A) Within Subject to division (D) of this 579
section, within thirty days of the convening of the first regular 580
session of the general assembly, each agency required to submit 581
reports or similar documents to the general assembly pursuant to 582
section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of 583
the Revised Code shall send written notice to each member of the 584
general assembly in order to determine whether the member desires 585
to personally receive the reports or similar documents as they are 586
made available by the agency. If the member desires to personally 587
receive the reports or similar documents as they become available, 588
the member shall send a written request to the agency within 589
thirty days of receiving the notice. 590

(B) Whenever any statute or rule requires that a report, 591
recommendation, or other similar document be submitted to the 592
general assembly under a law not cited in division (A) of this 593
section, to the members of the general assembly, to one house of 594
the general assembly, or to the members of one house of the 595
general assembly, the requirement shall be fulfilled by the 596
submission of a copy of the report, recommendation, or document to 597
the director of the legislative service commission, the president 598
of the senate, the minority leader of the senate, the speaker of 599
the house of representatives, and the minority leader of the house 600

of representatives if both houses of the general assembly or their
members are specified, or to the director of the legislative
service commission, the president of the senate, and the minority
leader of the senate if only the senate or its members are
specified, or to the director of the legislative service
commission, the speaker of the house of representatives, and the
minority leader of the house of representatives if only the house
of representatives or its members are specified. This division
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.

633

Sec. 102.02. (A) Except as otherwise provided in division (H) 634
of this section, all of the following shall file with the 635
appropriate ethics commission the disclosure statement described 636
in this division on a form prescribed by the appropriate 637
commission: every person who is elected to or is a candidate for a 638
state, county, or city office and every person who is appointed to 639
fill a vacancy for an unexpired term in such an elective office; 640
all members of the state board of education; the director, 641
assistant directors, deputy directors, division chiefs, or persons 642
of equivalent rank of any administrative department of the state; 643
the president or other chief administrative officer of every state 644
institution of higher education as defined in section 3345.011 of 645
the Revised Code; the executive director and the members of the 646
capitol square review and advisory board appointed or employed 647
pursuant to section 105.41 of the Revised Code; the chief 648
executive officer and the members of the board of each state 649
retirement system; each employee of a state retirement board who 650
is a state retirement system investment officer licensed pursuant 651
to section 1707.163 of the Revised Code; the members of the Ohio 652
retirement study council appointed pursuant to division (C) of 653
section 171.01 of the Revised Code; employees of the Ohio 654
retirement study council, other than employees who perform purely 655
administrative or clerical functions; all members of the board of 656
commissioners on grievances and discipline of the supreme court 657
and the ethics commission created under section 102.05 of the 658
Revised Code; every business manager, treasurer, or superintendent 659
of a city, local, exempted village, joint vocational, or 660
cooperative education school district or an educational service 661
center; every person who is elected to or is a candidate for the 662
office of member of a board of education of a city, local, 663
exempted village, joint vocational, or cooperative education 664

school district or of a governing board of an educational service 665
center that has a total student count of twelve thousand or more 666
as most recently determined by the department of education 667
pursuant to section 3317.03 of the Revised Code; every person who 668
is appointed to the board of education of a municipal school 669
district pursuant to division (B) or (F) of section 3311.71 of the 670
Revised Code; all members of the board of directors of a sanitary 671
district that is established under Chapter 6115. of the Revised 672
Code and organized wholly for the purpose of providing a water 673
supply for domestic, municipal, and public use, and that includes 674
two municipal corporations in two counties; every public official 675
or employee who is paid a salary or wage in accordance with 676
schedule C of section 124.15 or schedule E-2 of section 124.152 of 677
the Revised Code; members of the board of trustees and the 678
executive director of the tobacco use prevention and control 679
foundation; members of the board of trustees and the executive 680
director of the southern Ohio agricultural and community 681
development foundation; and every other public official or 682
employee who is designated by the appropriate ethics commission 683
pursuant to division (B) of this section. 684

The disclosure statement shall include all of the following: 685

(1) The name of the person filing the statement and each 686
member of the person's immediate family and all names under which 687
the person or members of the person's immediate family do 688
business; 689

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 690
and except as otherwise provided in section 102.022 of the Revised 691
Code, identification of every source of income, other than income 692
from a legislative agent identified in division (A)(2)(b) of this 693
section, received during the preceding calendar year, in the 694
person's own name or by any other person for the person's use or 695
benefit, by the person filing the statement, and a brief 696

description of the nature of the services for which the income was 697
received. If the person filing the statement is a member of the 698
general assembly, the statement shall identify the amount of every 699
source of income received in accordance with the following ranges 700
of amounts: zero or more, but less than one thousand dollars; one 701
thousand dollars or more, but less than ten thousand dollars; ten 702
thousand dollars or more, but less than twenty-five thousand 703
dollars; twenty-five thousand dollars or more, but less than fifty 704
thousand dollars; fifty thousand dollars or more, but less than 705
one hundred thousand dollars; and one hundred thousand dollars or 706
more. Division (A)(2)(a) of this section shall not be construed to 707
require a person filing the statement who derives income from a 708
business or profession to disclose the individual items of income 709
that constitute the gross income of that business or profession, 710
except for those individual items of income that are attributable 711
to the person's or, if the income is shared with the person, the 712
partner's, solicitation of services or goods or performance, 713
arrangement, or facilitation of services or provision of goods on 714
behalf of the business or profession of clients, including 715
corporate clients, who are legislative agents. A person who files 716
the statement under this section shall disclose the identity of 717
and the amount of income received from a person who the public 718
official or employee knows or has reason to know is doing or 719
seeking to do business of any kind with the public official's or 720
employee's agency. 721

(b) If the person filing the statement is a member of the 722
general assembly, the statement shall identify every source of 723
income and the amount of that income that was received from a 724
legislative agent during the preceding calendar year, in the 725
person's own name or by any other person for the person's use or 726
benefit, by the person filing the statement, and a brief 727
description of the nature of the services for which the income was 728

received. Division (A)(2)(b) of this section requires the 729
disclosure of clients of attorneys or persons licensed under 730
section 4732.12 of the Revised Code, or patients of persons 731
certified under section 4731.14 of the Revised Code, if those 732
clients or patients are legislative agents. Division (A)(2)(b) of 733
this section requires a person filing the statement who derives 734
income from a business or profession to disclose those individual 735
items of income that constitute the gross income of that business 736
or profession that are received from legislative agents. 737

(c) Except as otherwise provided in division (A)(2)(c) of 738
this section, division (A)(2)(a) of this section applies to 739
attorneys, physicians, and other persons who engage in the 740
practice of a profession and who, pursuant to a section of the 741
Revised Code, the common law of this state, a code of ethics 742
applicable to the profession, or otherwise, generally are required 743
not to reveal, disclose, or use confidences of clients, patients, 744
or other recipients of professional services except under 745
specified circumstances or generally are required to maintain 746
those types of confidences as privileged communications except 747
under specified circumstances. Division (A)(2)(a) of this section 748
does not require an attorney, physician, or other professional 749
subject to a confidentiality requirement as described in division 750
(A)(2)(c) of this section to disclose the name, other identity, or 751
address of a client, patient, or other recipient of professional 752
services if the disclosure would threaten the client, patient, or 753
other recipient of professional services, would reveal details of 754
the subject matter for which legal, medical, or professional 755
advice or other services were sought, or would reveal an otherwise 756
privileged communication involving the client, patient, or other 757
recipient of professional services. Division (A)(2)(a) of this 758
section does not require an attorney, physician, or other 759
professional subject to a confidentiality requirement as described 760

in division (A)(2)(c) of this section to disclose in the brief 761
description of the nature of services required by division 762
(A)(2)(a) of this section any information pertaining to specific 763
professional services rendered for a client, patient, or other 764
recipient of professional services that would reveal details of 765
the subject matter for which legal, medical, or professional 766
advice was sought or would reveal an otherwise privileged 767
communication involving the client, patient, or other recipient of 768
professional services. 769

(3) The name of every corporation on file with the secretary 770
of state that is incorporated in this state or holds a certificate 771
of compliance authorizing it to do business in this state, trust, 772
business trust, partnership, or association that transacts 773
business in this state in which the person filing the statement or 774
any other person for the person's use and benefit had during the 775
preceding calendar year an investment of over one thousand dollars 776
at fair market value as of the thirty-first day of December of the 777
preceding calendar year, or the date of disposition, whichever is 778
earlier, or in which the person holds any office or has a 779
fiduciary relationship, and a description of the nature of the 780
investment, office, or relationship. Division (A)(3) of this 781
section does not require disclosure of the name of any bank, 782
savings and loan association, credit union, or building and loan 783
association with which the person filing the statement has a 784
deposit or a withdrawable share account. 785

(4) All fee simple and leasehold interests to which the 786
person filing the statement holds legal title to or a beneficial 787
interest in real property located within the state, excluding the 788
person's residence and property used primarily for personal 789
recreation; 790

(5) The names of all persons residing or transacting business 791
in the state to whom the person filing the statement owes, in the 792

person's own name or in the name of any other person, more than 793
one thousand dollars. Division (A)(5) of this section shall not be 794
construed to require the disclosure of debts owed by the person 795
resulting from the ordinary conduct of a business or profession or 796
debts on the person's residence or real property used primarily 797
for personal recreation, except that the superintendent of 798
financial institutions shall disclose the names of all 799
state-chartered savings and loan associations and of all service 800
corporations subject to regulation under division (E)(2) of 801
section 1151.34 of the Revised Code to whom the superintendent in 802
the superintendent's own name or in the name of any other person 803
owes any money, and that the superintendent and any deputy 804
superintendent of banks shall disclose the names of all 805
state-chartered banks and all bank subsidiary corporations subject 806
to regulation under section 1109.44 of the Revised Code to whom 807
the superintendent or deputy superintendent owes any money. 808

(6) The names of all persons residing or transacting business 809
in the state, other than a depository excluded under division 810
(A)(3) of this section, who owe more than one thousand dollars to 811
the person filing the statement, either in the person's own name 812
or to any person for the person's use or benefit. Division (A)(6) 813
of this section shall not be construed to require the disclosure 814
of clients of attorneys or persons licensed under section 4732.12 815
or 4732.15 of the Revised Code, or patients of persons certified 816
under section 4731.14 of the Revised Code, nor the disclosure of 817
debts owed to the person resulting from the ordinary conduct of a 818
business or profession. 819

(7) Except as otherwise provided in section 102.022 of the 820
Revised Code, the source of each gift of over seventy-five 821
dollars, or of each gift of over twenty-five dollars received by a 822
member of the general assembly from a legislative agent, received 823
by the person in the person's own name or by any other person for 824

the person's use or benefit during the preceding calendar year, 825
except gifts received by will or by virtue of section 2105.06 of 826
the Revised Code, or received from spouses, parents, grandparents, 827
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 828
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 829
fathers-in-law, mothers-in-law, or any person to whom the person 830
filing the statement stands in loco parentis, or received by way 831
of distribution from any inter vivos or testamentary trust 832
established by a spouse or by an ancestor; 833

(8) Except as otherwise provided in section 102.022 of the 834
Revised Code, identification of the source and amount of every 835
payment of expenses incurred for travel to destinations inside or 836
outside this state that is received by the person in the person's 837
own name or by any other person for the person's use or benefit 838
and that is incurred in connection with the person's official 839
duties, except for expenses for travel to meetings or conventions 840
of a national or state organization to which any state agency, 841
including, but not limited to, any legislative agency or state 842
institution of higher education as defined in section 3345.011 of 843
the Revised Code, pays membership dues, or any political 844
subdivision or any office or agency of a political subdivision 845
pays membership dues; 846

(9) Except as otherwise provided in section 102.022 of the 847
Revised Code, identification of the source of payment of expenses 848
for meals and other food and beverages, other than for meals and 849
other food and beverages provided at a meeting at which the person 850
participated in a panel, seminar, or speaking engagement or at a 851
meeting or convention of a national or state organization to which 852
any state agency, including, but not limited to, any legislative 853
agency or state institution of higher education as defined in 854
section 3345.011 of the Revised Code, pays membership dues, or any 855
political subdivision or any office or agency of a political 856

subdivision pays membership dues, that are incurred in connection 857
with the person's official duties and that exceed one hundred 858
dollars aggregated per calendar year; 859

(10) If the disclosure statement is filed by a public 860
official or employee described in division (B)(2) of section 861
101.73 of the Revised Code or division (B)(2) of section 121.63 of 862
the Revised Code who receives a statement from a legislative 863
agent, executive agency lobbyist, or employer that contains the 864
information described in division (F)(2) of section 101.73 of the 865
Revised Code or division (G)(2) of section 121.63 of the Revised 866
Code, all of the nondisputed information contained in the 867
statement delivered to that public official or employee by the 868
legislative agent, executive agency lobbyist, or employer under 869
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 870
the Revised Code. 871

A person may file a statement required by this section in 872
person or by mail. A person who is a candidate for elective office 873
shall file the statement no later than the thirtieth day before 874
the primary, special, or general election at which the candidacy 875
is to be voted on, whichever election occurs soonest, except that 876
a person who is a write-in candidate shall file the statement no 877
later than the twentieth day before the earliest election at which 878
the person's candidacy is to be voted on. A person who holds 879
elective office shall file the statement on or before the 880
fifteenth day of April of each year unless the person is a 881
candidate for office. A person who is appointed to fill a vacancy 882
for an unexpired term in an elective office shall file the 883
statement within fifteen days after the person qualifies for 884
office. Other persons shall file an annual statement on or before 885
the fifteenth day of April or, if appointed or employed after that 886
date, within ninety days after appointment or employment. No 887
person shall be required to file with the appropriate ethics 888

commission more than one statement or pay more than one filing fee 889
for any one calendar year. 890

The appropriate ethics commission, for good cause, may extend 891
for a reasonable time the deadline for filing a statement under 892
this section. 893

A statement filed under this section is subject to public 894
inspection at locations designated by the appropriate ethics 895
commission except as otherwise provided in this section. 896

(B) The Ohio ethics commission, the joint legislative ethics 897
committee, and the board of commissioners on grievances and 898
discipline of the supreme court, using the rule-making procedures 899
of Chapter 119. of the Revised Code, may require any class of 900
public officials or employees under its jurisdiction and not 901
specifically excluded by this section whose positions involve a 902
substantial and material exercise of administrative discretion in 903
the formulation of public policy, expenditure of public funds, 904
enforcement of laws and rules of the state or a county or city, or 905
the execution of other public trusts, to file an annual statement 906
on or before the fifteenth day of April under division (A) of this 907
section. The appropriate ethics commission shall send the public 908
officials or employees written notice of the requirement by the 909
fifteenth day of February of each year the filing is required 910
unless the public official or employee is appointed after that 911
date, in which case the notice shall be sent within thirty days 912
after appointment, and the filing shall be made not later than 913
ninety days after appointment. 914

Except for disclosure statements filed by members of the 915
board of trustees and the executive director of the tobacco use 916
prevention and control foundation and members of the board of 917
trustees and the executive director of the southern Ohio 918
agricultural and community development foundation, disclosure 919

statements filed under this division with the Ohio ethics 920
commission by members of boards, commissions, or bureaus of the 921
state for which no compensation is received other than reasonable 922
and necessary expenses shall be kept confidential. Disclosure 923
statements filed with the Ohio ethics commission under division 924
(A) of this section by business managers, treasurers, and 925
superintendents of city, local, exempted village, joint 926
vocational, or cooperative education school districts or 927
educational service centers shall be kept confidential, except 928
that any person conducting an audit of any such school district or 929
educational service center pursuant to section 115.56 or Chapter 930
117. of the Revised Code may examine the disclosure statement of 931
any business manager, treasurer, or superintendent of that school 932
district or educational service center. The Ohio ethics commission 933
shall examine each disclosure statement required to be kept 934
confidential to determine whether a potential conflict of interest 935
exists for the person who filed the disclosure statement. A 936
potential conflict of interest exists if the private interests of 937
the person, as indicated by the person's disclosure statement, 938
might interfere with the public interests the person is required 939
to serve in the exercise of the person's authority and duties in 940
the person's office or position of employment. If the commission 941
determines that a potential conflict of interest exists, it shall 942
notify the person who filed the disclosure statement and shall 943
make the portions of the disclosure statement that indicate a 944
potential conflict of interest subject to public inspection in the 945
same manner as is provided for other disclosure statements. Any 946
portion of the disclosure statement that the commission determines 947
does not indicate a potential conflict of interest shall be kept 948
confidential by the commission and shall not be made subject to 949
public inspection, except as is necessary for the enforcement of 950
Chapters 102. and 2921. of the Revised Code and except as 951
otherwise provided in this division. 952

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

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

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

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

For state office, except member of the		965
state board of education	\$65	966
For office of member of general assembly	\$40	967
For county office	\$40	968
For city office	\$25	969
For office of member of the state board		970
of education	\$25	971
For office of member of a city, local,		972
exempted village, or cooperative		973
education board of		974
education or educational service		975
center governing board	\$20	976
For position of business manager,		977
treasurer, or superintendent of a		978
city, local, exempted village, joint		979
vocational, or cooperative education		980
school district or		981
educational service center	\$20	982

(3) No judge of a court of record or candidate for judge of a

court of record, and no referee or magistrate serving a court of
record, shall be required to pay the fee required under division
(E)(1) or (2) or (F) of this section.

(4) For any public official who is appointed to a nonelective
office of the state and for any employee who holds a nonelective
position in a public agency of the state, the state agency that is
the primary employer of the state official or employee shall pay
the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is
not filed by the date on which it is required to be filed, the
appropriate ethics commission shall assess the person required to
file the statement a late filing fee of ten dollars for each day
the statement is not filed, except that the total amount of the
late filing fee shall not exceed two hundred fifty dollars.

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

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

(H) Division (A) of this section does not apply to a person
elected or appointed to the office of precinct, ward, or district
committee member under Chapter 3517. of the Revised Code; a
presidential elector; a delegate to a national convention; village
or township officials and employees; any physician or psychiatrist

who is paid a salary or wage in accordance with schedule C of 1015
section 124.15 or schedule E-2 of section 124.152 of the Revised 1016
Code and whose primary duties do not require the exercise of 1017
administrative discretion; or any member of a board, commission, 1018
or bureau of any county or city who receives less than one 1019
thousand dollars per year for serving in that position. 1020

Sec. 103.132. The legislative service commission, in 1021
conjunction with the legislative information systems office, shall 1022
establish and maintain an electronic database containing current 1023
and historical revenue and expenditure data for each school 1024
district in the state that is easy to use and readily accessible 1025
through the internet. 1026

Sec. 105.41. (A) There is hereby created the capitol square 1027
review and advisory board, consisting of one nonvoting member, who 1028
shall be a member of the capital square foundation appointed by 1029
the board of the foundation, and the following thirteen voting 1030
members as follows: 1031

(1) Two members of the senate, appointed by the president of 1032
the senate, both of whom shall not be members of the same 1033
political party; 1034

(2) Two members of the house of representatives, appointed by 1035
the speaker of the house of representatives, both of whom shall 1036
not be members of the same political party; 1037

(3) Five members appointed by the governor, with the advice 1038
and consent of the senate, not more than three of whom shall be 1039
members of the same political party, one of whom shall represent 1040
the office of the state architect and engineer, one of whom shall 1041
represent the Ohio arts council, one of whom shall represent the 1042
Ohio historical society, one of whom shall represent the Ohio 1043
building authority, and one of whom shall represent the public at 1044

large; 1045

(4) One member, who shall be a former president of the 1046
senate, appointed by the current president of the senate. If the 1047
current president of the senate, in the current president's 1048
discretion, decides for any reason not to make the appointment or 1049
if no person is eligible or available to serve, the seat shall 1050
remain vacant. 1051

(5) One member, who shall be a former speaker of the house of 1052
representatives, appointed by the current speaker of the house of 1053
representatives. If the current speaker of the house of 1054
representatives, in the current speaker's discretion, decides for 1055
any reason not to make the appointment or if no person is eligible 1056
or available to serve, the seat shall remain vacant. 1057

(6) The clerk of the senate and the clerk of the house of 1058
representatives. 1059

(B) Terms of office of each appointed member of the board 1060
shall be for three years, except that members of the general 1061
assembly appointed to the board shall be members of the board only 1062
so long as they are members of the general assembly. Each member 1063
shall hold office from the date of the member's appointment until 1064
the end of the term for which the member was appointed. In case of 1065
a vacancy occurring on the board, the president of the senate, the 1066
speaker of the house of representatives, ~~or~~ the governor, or the 1067
board of the foundation, as the case may be, shall in the same 1068
manner prescribed for the regular appointment to the commission, 1069
fill the vacancy by appointing a member. Any member appointed to 1070
fill a vacancy occurring prior to the expiration of the term for 1071
which the member's predecessor was appointed shall hold office for 1072
the remainder of the term. Any appointed member shall continue in 1073
office subsequent to the expiration date of the member's term 1074
until the member's successor takes office, or until a period of 1075

sixty days has elapsed, whichever occurs first. 1076

(C) The board shall hold meetings in a manner and at times 1077
prescribed by the rules adopted by the board. A majority of the 1078
voting members of the board constitutes a quorum, and no action 1079
shall be taken by the board unless approved by at least six voting 1080
members or by at least seven voting members if a person is 1081
appointed under division (A)(4) or (5) of this section. At its 1082
first meeting, the board shall adopt rules for the conduct of its 1083
business and the election of its officers, and shall organize by 1084
selecting a chairperson and other officers as it considers 1085
necessary. Board members shall serve without compensation but 1086
shall be reimbursed for actual and necessary expenses incurred in 1087
the performance of their duties. 1088

(D) The board may do any of the following: 1089

(1) Employ or hire on a consulting basis professional, 1090
technical, and clerical employees as are necessary for the 1091
performance of its duties; 1092

(2) Hold public hearings at times and places as determined by 1093
the board; 1094

(3) Adopt, amend, or rescind rules necessary to accomplish 1095
the duties of the board as set forth in this section; 1096

(4) Sponsor, conduct, and support such social events as the 1097
board may authorize and consider appropriate for the employees of 1098
the board, employees and members of the general assembly, 1099
employees of persons under contract with the board or otherwise 1100
engaged to perform services on the premises of capitol square, or 1101
other persons as the board may consider appropriate. Subject to 1102
the requirements of Chapter 4303. of the Revised Code, the board 1103
may provide beer, wine, and intoxicating liquor, with or without 1104
charge, for those events and may use funds only from the sale of 1105
goods and services fund to purchase the beer, wine, and 1106

intoxicating liquor the board provides. 1107

(E) The board shall do all of the following: 1108

(1) Have sole authority to coordinate and approve any 1109
improvements, additions, and renovations that are made to the 1110
capitol square. The improvements shall include, but not be limited 1111
to, the placement of monuments and sculpture on the capitol 1112
grounds. 1113

(2) Subject to section 3353.07 of the Revised Code, operate 1114
the capitol square, and have sole authority to regulate all uses 1115
of the capitol square. The uses shall include, but not be limited 1116
to, the casual and recreational use of the capitol square. 1117

(3) Employ, fix the compensation of, and prescribe the duties 1118
of the executive director of the board and other employees the 1119
board considers necessary for the performance of its powers and 1120
duties; 1121

(4) Establish and maintain the capitol collection trust. The 1122
capitol collection trust shall consist of furniture, antiques, and 1123
other items of personal property that the board shall store in 1124
suitable facilities until they are ready to be placed in the 1125
capitol square. 1126

(5) Perform repair, construction, contracting, purchasing, 1127
maintenance, supervisory, and operating activities the board 1128
determines are necessary for the operation and maintenance of the 1129
capitol square; 1130

(6) Maintain and preserve the capitol square, in accordance 1131
with guidelines issued by the United States secretary of the 1132
interior for application of the secretary's standards for 1133
rehabilitation adopted in 36 C.F.R. part 67. 1134

(F)(1) The board shall lease capital facilities improved or 1135
financed by the Ohio building authority pursuant to Chapter 152. 1136

of the Revised Code for the use of the board, and may enter into 1137
any other agreements with the authority ancillary to improvement, 1138
financing, or leasing of those capital facilities, including, but 1139
not limited to, any agreement required by the applicable bond 1140
proceedings authorized by Chapter 152. of the Revised Code. Any 1141
lease of capital facilities authorized by this section shall be 1142
governed by division (D) of section 152.24 of the Revised Code. 1143

(2) Fees, receipts, and revenues received by the board from 1144
the state underground parking garage constitute available receipts 1145
as defined in section 152.09 of the Revised Code, and may be 1146
pledged to the payment of bond service charges on obligations 1147
issued by the Ohio building authority pursuant to Chapter 152. of 1148
the Revised Code to improve or finance capital facilities useful 1149
to the board. The authority may, with the consent of the board, 1150
provide in the bond proceedings for a pledge of all or a portion 1151
of those fees, receipts, and revenues as the authority determines. 1152
The authority may provide in the bond proceedings or by separate 1153
agreement with the board for the transfer of those fees, receipts, 1154
and revenues to the appropriate bond service fund or bond service 1155
reserve fund as required to pay the bond service charges when due, 1156
and any such provision for the transfer of those fees, receipts, 1157
and revenues shall be controlling notwithstanding any other 1158
provision of law pertaining to those fees, receipts, and revenues. 1159

(3) All moneys received by the treasurer of state on account 1160
of the board and required by the applicable bond proceedings or by 1161
separate agreement with the board to be deposited, transferred, or 1162
credited to the bond service fund or bond service reserve fund 1163
established by the bond proceedings shall be transferred by the 1164
treasurer of state to such fund, whether or not it is in the 1165
custody of the treasurer of state, without necessity for further 1166
appropriation, upon receipt of notice from the Ohio building 1167
authority as prescribed in the bond proceedings. 1168

(G) All fees, receipts, and revenues received by the board 1169
from the state underground parking garage shall be deposited into 1170
the state treasury to the credit of the underground parking garage 1171
operating fund, which is hereby created, to be used for the 1172
purposes specified in division (F) of this section and for the 1173
operation and maintenance of the garage. All investment earnings 1174
of the fund shall be credited to the fund. 1175

(H) All donations received by the board shall be deposited 1176
into the state treasury to the credit of the capitol square 1177
renovation gift fund, which is hereby created. The fund shall be 1178
used by the board as follows: 1179

(1) To provide part or all of the funding related to 1180
construction, goods, or services for the renovation of the capitol 1181
square; 1182

(2) To purchase art, antiques, and artifacts for display at 1183
the capitol square; 1184

(3) To award contracts or make grants to organizations for 1185
educating the public regarding the historical background and 1186
governmental functions of the capitol square. Chapters 125., 127., 1187
and 153. and section 3517.13 of the Revised Code do not apply to 1188
purchases made exclusively from the fund, notwithstanding anything 1189
to the contrary in those chapters or that section. All investment 1190
earnings of the fund shall be credited to the fund. 1191

(I) Except as provided in divisions (G), (H), and (J) of this 1192
section, all fees, receipts, and revenues received by the board 1193
shall be deposited into the state treasury to the credit of the 1194
sale of goods and services fund, which is hereby created. Money 1195
credited to the fund shall be used solely to pay costs of the 1196
board other than those specified in divisions (F) and (G) of this 1197
section. All investment earnings of the fund shall be credited to 1198
the fund. 1199

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

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

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

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

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

(B) The governor may appoint the lieutenant governor as an administrative department head listed in section 121.03 of the

Revised Code, ~~as director of the office of criminal justice~~ 1230
~~services pursuant to section 181.52 of the Revised Code,~~ as the 1231
governor's representative on any board, agency, committee, or 1232
commission of which the governor is a member and has the authority 1233
to appoint a representative, or in an advisory capacity to any 1234
nonelective board, agency, committee, or commission in the 1235
executive department or may give the lieutenant governor any 1236
special assignment as the governor considers in the interest of 1237
the state. 1238

(C) When carrying out any of the functions described in 1239
division (B) of this section, the lieutenant governor shall be 1240
reimbursed from funds of the particular authority for necessary 1241
expenses incurred in the conduct of authority business. 1242

Sec. 109.54. (A) The bureau of criminal identification and 1243
investigation may investigate any criminal activity in this state 1244
that is of statewide or intercounty concern when requested by 1245
local authorities and may aid federal authorities, when requested, 1246
in their investigation of any criminal activity in this state. The 1247
bureau may investigate any criminal activity in this state related 1248
to the conduct of elections when requested by the secretary of 1249
state. The bureau may investigate any criminal activity in this 1250
state involving drug abuse or illegal drug distribution prohibited 1251
under Chapter 3719. or 4729. of the Revised Code. The 1252
superintendent and any agent of the bureau may participate, as the 1253
director of an organized crime task force established under 1254
section 177.02 of the Revised Code or as a member of the 1255
investigatory staff of a task force established under that 1256
section, in an investigation of organized criminal activity 1257
anywhere within this state under sections 177.01 to 177.03 of the 1258
Revised Code. 1259

(B) The bureau may provide any trained investigative 1260

personnel and specialized equipment that are requested by any 1261
sheriff or chief of police, by the authorized designee of any 1262
sheriff or chief of police, or by any other authorized law 1263
enforcement officer to aid and assist the officer in the 1264
investigation and solution of any crime or the control of any 1265
criminal activity occurring within the officer's jurisdiction. 1266
This assistance shall be furnished by the bureau without 1267
disturbing or impairing any of the existing law enforcement 1268
authority or the prerogatives of local law enforcement authorities 1269
or officers. Investigators provided pursuant to this section, or 1270
engaged in an investigation pursuant to section 109.83 of the 1271
Revised Code, may go armed in the same manner as sheriffs and 1272
regularly appointed police officers under section 2923.12 of the 1273
Revised Code. 1274

(C)(1) The bureau shall obtain recording equipment that can 1275
be used to record depositions of the type described in division 1276
(A) of section 2152.81 and division (A) of section 2945.481 of the 1277
Revised Code, or testimony of the type described in division (D) 1278
of section 2152.81 and division (D) of section 2945.481 or in 1279
division (C) of section 2937.11 of the Revised Code, shall obtain 1280
closed circuit equipment that can be used to televise testimony of 1281
the type described in division (C) of section 2152.81 and division 1282
(C) of section 2945.481 or in division (B) of section 2937.11 of 1283
the Revised Code, and shall provide the equipment, upon request, 1284
to any court for use in recording any deposition or testimony of 1285
one of those types or in televising the testimony in accordance 1286
with the applicable division. 1287

(2) The bureau shall obtain the names, addresses, and 1288
telephone numbers of persons who are experienced in questioning 1289
children in relation to an investigation of a violation of section 1290
2905.03, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 1291
2907.07, 2907.09, 2907.21, 2907.23, 2907.24, 2907.31, 2907.32, 1292

2907.321, 2907.322, 2907.323, or 2919.22 of the Revised Code or an
offense of violence and shall maintain a list of those names,
addresses, and telephone numbers. The list shall include a
classification of the names, addresses, and telephone numbers by
appellate district. Upon request, the bureau shall provide any
county sheriff, chief of police, prosecuting attorney, village
solicitor, city director of law, or similar chief legal officer
with the name, address, and telephone number of any person
contained in the list.

Sec. 109.57. (A)(1) The superintendent of the bureau of
criminal identification and investigation shall procure from
wherever procurable and file for record photographs, pictures,
descriptions, fingerprints, measurements, and other information
that may be pertinent of all persons who have been convicted of
committing within this state a felony, any crime constituting a
misdemeanor on the first offense and a felony on subsequent
offenses, or any misdemeanor described in division (A)(1)(a) of
section 109.572 of the Revised Code, of all children under
eighteen years of age who have been adjudicated delinquent
children for committing within this state an act that would be a
felony or an offense of violence if committed by an adult or who
have been convicted of or pleaded guilty to committing within this
state a felony or an offense of violence, and of all well-known
and habitual criminals. The person in charge of any 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 the person in charge of any state institution
having custody of a person suspected of having committed a felony,
any crime constituting a misdemeanor on the first offense and a
felony on subsequent offenses, or any misdemeanor described in
division (A)(1)(a) of section 109.572 of the Revised Code or

having custody of a child under eighteen years of age with respect 1325
to whom there is probable cause to believe that the child may have 1326
committed an act that would be a felony or an offense of violence 1327
if committed by an adult shall furnish such material to the 1328
superintendent of the bureau. Fingerprints, photographs, or other 1329
descriptive information of a child who is under eighteen years of 1330
age, has not been arrested or otherwise taken into custody for 1331
committing an act that would be a felony or an offense of violence 1332
if committed by an adult, has not been adjudicated a delinquent 1333
child for committing an act that would be a felony or an offense 1334
of violence if committed by an adult, has not been convicted of or 1335
pleaded guilty to committing a felony or an offense of violence, 1336
and is not a child with respect to whom there is probable cause to 1337
believe that the child may have committed an act that would be a 1338
felony or an offense of violence if committed by an adult shall 1339
not be procured by the superintendent or furnished by any person 1340
in charge of any county, multicounty, municipal, municipal-county, 1341
or multicounty-municipal jail or workhouse, community-based 1342
correctional facility, halfway house, alternative residential 1343
facility, or state correctional institution, except as authorized 1344
in section 2151.313 of the Revised Code. 1345

(2) Every clerk of a court of record in this state, other 1346
than the supreme court or a court of appeals, shall send to the 1347
superintendent of the bureau a weekly report containing a summary 1348
of each case involving a felony, involving any crime constituting 1349
a misdemeanor on the first offense and a felony on subsequent 1350
offenses, involving a misdemeanor described in division (A)(1)(a) 1351
of section 109.572 of the Revised Code, or involving an 1352
adjudication in a case in which a child under eighteen years of 1353
age was alleged to be a delinquent child for committing an act 1354
that would be a felony or an offense of violence if committed by 1355
an adult. The clerk of the court of common pleas shall include in 1356
the report and summary the clerk sends under this division all 1357

information described in divisions (A)(2)(a) to (f) of this 1358
section regarding a case before the court of appeals that is 1359
served by that clerk. The summary shall be written on the standard 1360
forms furnished by the superintendent pursuant to division (B) of 1361
this section and shall include the following information: 1362

(a) The incident tracking number contained on the standard 1363
forms furnished by the superintendent pursuant to division (B) of 1364
this section; 1365

(b) The style and number of the case; 1366

(c) The date of arrest; 1367

(d) The date that the person was convicted of or pleaded 1368
guilty to the offense, adjudicated a delinquent child for 1369
committing the act that would be a felony or an offense of 1370
violence if committed by an adult, found not guilty of the 1371
offense, or found not to be a delinquent child for committing an 1372
act that would be a felony or an offense of violence if committed 1373
by an adult, the date of an entry dismissing the charge, an entry 1374
declaring a mistrial of the offense in which the person is 1375
discharged, an entry finding that the person or child is not 1376
competent to stand trial, or an entry of a nolle prosequi, or the 1377
date of any other determination that constitutes final resolution 1378
of the case; 1379

(e) A statement of the original charge with the section of 1380
the Revised Code that was alleged to be violated; 1381

(f) If the person or child was convicted, pleaded guilty, or 1382
was adjudicated a delinquent child, the sentence or terms of 1383
probation imposed or any other disposition of the offender or the 1384
delinquent child. 1385

If the offense involved the disarming of a law enforcement 1386
officer or an attempt to disarm a law enforcement officer, the 1387

clerk shall clearly state that fact in the summary, and the 1388
superintendent shall ensure that a clear statement of that fact is 1389
placed in the bureau's records. 1390

(3) The superintendent shall cooperate with and assist 1391
sheriffs, chiefs of police, and other law enforcement officers in 1392
the establishment of a complete system of criminal identification 1393
and in obtaining fingerprints and other means of identification of 1394
all persons arrested on a charge of a felony, any crime 1395
constituting a misdemeanor on the first offense and a felony on 1396
subsequent offenses, or a misdemeanor described in division 1397
(A)(1)(a) of section 109.572 of the Revised Code and of all 1398
children under eighteen years of age arrested or otherwise taken 1399
into custody for committing an act that would be a felony or an 1400
offense of violence if committed by an adult. The superintendent 1401
also shall file for record the fingerprint impressions of all 1402
persons confined in a county, multicounty, municipal, 1403
municipal-county, or multicounty-municipal jail or workhouse, 1404
community-based correctional facility, halfway house, alternative 1405
residential facility, or state correctional institution for the 1406
violation of state laws and of all children under eighteen years 1407
of age who are confined in a county, multicounty, municipal, 1408
municipal-county, or multicounty-municipal jail or workhouse, 1409
community-based correctional facility, halfway house, alternative 1410
residential facility, or state correctional institution or in any 1411
facility for delinquent children for committing an act that would 1412
be a felony or an offense of violence if committed by an adult, 1413
and any other information that the superintendent may receive from 1414
law enforcement officials of the state and its political 1415
subdivisions. 1416

(4) The superintendent shall carry out Chapter 2950. of the 1417
Revised Code with respect to the registration of persons who are 1418
convicted of or plead guilty to either a sexually oriented offense 1419

that is not a registration-exempt sexually oriented offense or a 1420
child-victim oriented offense and with respect to all other duties 1421
imposed on the bureau under that chapter. 1422

(5) The bureau shall perform centralized recordkeeping 1423
functions for criminal history records and services in this state 1424
for purposes of the national crime prevention and privacy compact 1425
set forth in section 109.571 of the Revised Code and is the 1426
criminal history record repository as defined in that section for 1427
purposes of that compact. The superintendent or the 1428
superintendent's designee is the compact officer for purposes of 1429
that compact and shall carry out the responsibilities of the 1430
compact officer specified in that compact. 1431

(B) The superintendent shall prepare and furnish to every 1432
county, multicounty, municipal, municipal-county, or 1433
multicounty-municipal jail or workhouse, community-based 1434
correctional facility, halfway house, alternative residential 1435
facility, or state correctional institution and to every clerk of 1436
a court in this state specified in division (A)(2) of this section 1437
standard forms for reporting the information required under 1438
division (A) of this section. The standard forms that the 1439
superintendent prepares pursuant to this division may be in a 1440
tangible format, in an electronic format, or in both tangible 1441
formats and electronic formats. 1442

(C) The superintendent may operate a center for electronic, 1443
automated, or other data processing for the storage and retrieval 1444
of information, data, and statistics pertaining to criminals and 1445
to children under eighteen years of age who are adjudicated 1446
delinquent children for committing an act that would be a felony 1447
or an offense of violence if committed by an adult, criminal 1448
activity, crime prevention, law enforcement, and criminal justice, 1449
and may establish and operate a statewide communications network 1450
to gather and disseminate information, data, and statistics for 1451

the use of law enforcement agencies. The superintendent may
gather, store, retrieve, and disseminate information, data, and
statistics that pertain to children who are under eighteen years
of age and that are gathered pursuant to sections 109.57 to 109.61
of the Revised Code together with information, data, and
statistics that pertain to adults and that are gathered pursuant
to those sections. In addition to any other authorized use of
information, data, and statistics of that nature, the
superintendent or the superintendent's designee may provide and
exchange the information, data, and statistics pursuant to the
national crime prevention and privacy compact as described in
division (A)(5) of this section.

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

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

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

as amended.

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

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states or the federal government pursuant to the national crime 1516
prevention and privacy compact set forth in section 109.571 of the 1517
Revised Code. Within thirty days of the date that the 1518
superintendent receives a request, the superintendent shall send 1519
to the board, entity, or person a report of any information that 1520
the superintendent determines exists, including information 1521
contained in records that have been sealed under section 2953.32 1522
of the Revised Code, and, within thirty days of its receipt, shall 1523
send the board, entity, or person a report of any information 1524
received from the federal bureau of investigation, other than 1525
information the dissemination of which is prohibited by federal 1526
law. 1527

(b) When a board of education is required to receive 1528
information under this section as a prerequisite to employment of 1529
an individual pursuant to section 3319.39 of the Revised Code, it 1530
may accept a certified copy of records that were issued by the 1531
bureau of criminal identification and investigation and that are 1532
presented by an individual applying for employment with the 1533
district in lieu of requesting that information itself. In such a 1534
case, the board shall accept the certified copy issued by the 1535
bureau in order to make a photocopy of it for that individual's 1536
employment application documents and shall return the certified 1537
copy to the individual. In a case of that nature, a district only 1538
shall accept a certified copy of records of that nature within one 1539
year after the date of their issuance by the bureau. 1540

(3) The state board of education may request, with respect to 1541
any individual who has applied for employment after October 2, 1542
1989, in any position with the state board or the department of 1543
education, any information that a school district board of 1544
education is authorized to request under division (F)(2) of this 1545
section, and the superintendent of the bureau shall proceed as if 1546
the request has been received from a school district board of 1547

education under division (F)(2) of this section. 1548

(4) When the superintendent of the bureau receives a request 1549
for information under section 3319.291 of the Revised Code, the 1550
superintendent shall proceed as if the request has been received 1551
from a school district board of education under division (F)(2) of 1552
this section. 1553

(5) When a recipient of ~~an OhioReads~~ a classroom ~~or community~~ 1554
reading improvement grant paid under section 3301.86 ~~or 3301.87~~ of 1555
the Revised Code ~~or an entity approved by the OhioReads council~~ 1556
requests, with respect to any individual who applies to 1557
participate in providing any program or service ~~through an entity~~ 1558
~~approved by the OhioReads council~~ or funded in whole or in part by 1559
the grant, the information that a school district board of 1560
education is authorized to request under division (F)(2)(a) of 1561
this section, the superintendent of the bureau shall proceed as if 1562
the request has been received from a school district board of 1563
education under division (F)(2)(a) of this section. 1564

(G) In addition to or in conjunction with any request that is 1565
required to be made under section 173.41, 3701.881, 3712.09, 1566
3721.121, or 3722.151 of the Revised Code with respect to an 1567
individual who has applied for employment in a position that 1568
involves providing direct care to an older adult, the chief 1569
administrator of a PASSPORT agency that provides services through 1570
the PASSPORT program created under section 173.40 of the Revised 1571
Code, home health agency, hospice care program, home licensed 1572
under Chapter 3721. of the Revised Code, adult day-care program 1573
operated pursuant to rules adopted under section 3721.04 of the 1574
Revised Code, or adult care facility may request that the 1575
superintendent of the bureau investigate and determine, with 1576
respect to any individual who has applied after January 27, 1997, 1577
for employment in a position that does not involve providing 1578
direct care to an older adult, whether the bureau has any 1579

information gathered under division (A) of this section that 1580
pertains to that individual. On receipt of the request, the 1581
superintendent shall determine whether that information exists 1582
and, on request of the administrator requesting information, shall 1583
also request from the federal bureau of investigation any criminal 1584
records it has pertaining to that individual. The superintendent 1585
or the superintendent's designee also may request criminal history 1586
records from other states or the federal government pursuant to 1587
the national crime prevention and privacy compact set forth in 1588
section 109.571 of the Revised Code. Within thirty days of the 1589
date a request is received, the superintendent shall send to the 1590
administrator a report of any information determined to exist, 1591
including information contained in records that have been sealed 1592
under section 2953.32 of the Revised Code, and, within thirty days 1593
of its receipt, shall send the administrator a report of any 1594
information received from the federal bureau of investigation, 1595
other than information the dissemination of which is prohibited by 1596
federal law. 1597

(H) Information obtained by a board, administrator, or other 1598
person under this section is confidential and shall not be 1599
released or disseminated. 1600

(I) The superintendent may charge a reasonable fee for 1601
providing information or criminal records under division (F)(2) or 1602
(G) of this section. 1603

Sec. 109.60. (A)(1) The sheriffs of the several counties and 1604
the chiefs of police of cities, immediately upon the arrest of any 1605
person for any felony, on suspicion of any felony, for a crime 1606
constituting a misdemeanor on the first offense and a felony on 1607
subsequent offenses, or for any misdemeanor described in division 1608
(A)(1)(a) of section 109.572 of the Revised Code, and immediately 1609
upon the arrest or taking into custody of any child under eighteen 1610

years of age for committing an act that would be a felony or an 1611
offense of violence if committed by an adult or upon probable 1612
cause to believe that a child of that age may have committed an 1613
act that would be a felony or an offense of violence if committed 1614
by an adult, shall take the person's or child's fingerprints, or 1615
cause the same to be taken, according to the fingerprint system of 1616
identification on the forms furnished by the superintendent of the 1617
bureau of criminal identification and investigation, and 1618
immediately shall forward copies of the completed forms, any other 1619
description that may be required, and the history of the offense 1620
committed to the bureau to be classified and filed and to the 1621
clerk of the court having jurisdiction over the prosecution of the 1622
offense or over the adjudication relative to the act. 1623

(2) If a sheriff or chief of police has not taken, or caused 1624
to be taken, a person's or child's fingerprints in accordance with 1625
division (A)(1) of this section by the time of the arraignment or 1626
first appearance of the person or child, the court shall order the 1627
person or child to appear before the sheriff or chief of police 1628
within twenty-four hours to have the person's or child's 1629
fingerprints taken. The sheriff or chief of police shall take the 1630
person's or child's fingerprints, or cause the fingerprints to be 1631
taken, according to the fingerprint system of identification on 1632
the forms furnished by the superintendent of the bureau of 1633
criminal identification and investigation and, immediately after 1634
the person's or child's arraignment or first appearance, forward 1635
copies of the completed forms, any other description that may be 1636
required, and the history of the offense committed to the bureau 1637
to be classified and filed and to the clerk of the court. 1638

(3) Every court with jurisdiction over a case involving a 1639
person or child with respect to whom division (A)(1) of this 1640
section requires a sheriff or chief of police to take the person's 1641
or child's fingerprints shall inquire at the time of the person's 1642

or child's sentencing or adjudication whether or not the person or
child has been fingerprinted pursuant to division (A)(1) or (2) of
this section for the original arrest upon which the sentence or
adjudication is based. If the person or child was not
fingerprinted for the original arrest upon which the sentence or
adjudication is based, the court shall order the person or child
to appear before the sheriff or chief of police within twenty-four
hours to have the person's or child's fingerprints taken. The
sheriff or chief of police shall take the person's or child's
fingerprints, or cause the fingerprints to be taken, according to
the fingerprint system of identification on the forms furnished by
the superintendent of the bureau of criminal identification and
investigation and immediately forward copies of the completed
forms, any other description that may be required, and the history
of the offense committed to the bureau to be classified and filed
and to the clerk of the court.

(4) If a person or child is in the custody of a law
enforcement agency or a detention facility, as defined in section
2921.01 of the Revised Code, and the chief law enforcement officer
or chief administrative officer of the detention facility
discovers that a warrant has been issued or a bill of information
has been filed alleging the person or child to have committed an
offense or act other than the offense or act for which the person
or child is in custody, and the other alleged offense or act is
one for which fingerprints are to be taken pursuant to division
(A)(1) of this section, the law enforcement agency or detention
facility shall take the fingerprints of the person or child, or
cause the fingerprints to be taken, according to the fingerprint
system of identification on the forms furnished by the
superintendent of the bureau of criminal identification and
investigation and immediately forward copies of the completed
forms, any other description that may be required, and the history

of the offense committed to the bureau to be classified and filed 1675
and to the clerk of the court that issued the warrant or with 1676
which the bill of information was filed. 1677

(5) If an accused is found not guilty of the offense charged 1678
or a nolle prosequi is entered in any case, or if any accused 1679
child under eighteen years of age is found not to be a delinquent 1680
child for committing an act that would be a felony or an offense 1681
of violence if committed by an adult or not guilty of the felony 1682
or offense of violence charged or a nolle prosequi is entered in 1683
that case, the fingerprints and description shall be given to the 1684
accused upon the accused's request. 1685

(6) The superintendent shall compare the description received 1686
with those already on file in the bureau, and, if the 1687
superintendent finds that the person arrested or taken into 1688
custody has a criminal record or a record as a delinquent child 1689
for having committed an act that would be a felony or an offense 1690
of violence if committed by an adult or is a fugitive from justice 1691
or wanted by any jurisdiction in this or another state, the United 1692
States, or a foreign country for any offense, the superintendent 1693
at once shall inform the arresting officer, the officer taking the 1694
person into custody, or the chief administrative officer of the 1695
county, multicounty, municipal, municipal-county, or 1696
multicounty-municipal jail or workhouse, community-based 1697
correctional facility, halfway house, alternative residential 1698
facility, or state correctional institution in which the person or 1699
child is in custody of that fact and give appropriate notice to 1700
the proper authorities in the jurisdiction in which the person is 1701
wanted, or, if that jurisdiction is a foreign country, give 1702
appropriate notice to federal authorities for transmission to the 1703
foreign country. The names, under which each person whose 1704
identification is filed is known, shall be alphabetically indexed 1705
by the superintendent. 1706

(B) ~~This Division (A) of this~~ section does not apply to a 1707
violin of a city ordinance unless the officers have reason to 1708
believe that the violator is a past offender or the crime is one 1709
constituting a misdemeanor on the first offense and a felony on 1710
subsequent offenses, or unless it is advisable for the purpose of 1711
subsequent identification. This section does not apply to any 1712
child under eighteen years of age who was not arrested or 1713
otherwise taken into custody for committing an act that would be a 1714
felony or an offense of violence if committed by an adult or upon 1715
probable cause to believe that a child of that age may have 1716
committed an act that would be a felony or an offense of violence 1717
if committed by an adult, except as provided in section 2151.313 1718
of the Revised Code. 1719

(C)(1) For purposes of division (C) of this section, a law 1720
enforcement agency shall be considered to have arrested a person 1721
if any law enforcement officer who is employed by, appointed by, 1722
or serves that agency arrests the person. As used in division (C) 1723
of this section: 1724

(a) "Illegal methamphetamine manufacturing laboratory" has 1725
the same meaning as in section 3745.13 of the Revised Code. 1726

(b) "Methamphetamine or a methamphetamine product" means 1727
methamphetamine, any salt, isomer, or salt of an isomer of 1728
methamphetamine, or any compound, mixture, preparation, or 1729
substance containing methamphetamine or any salt, isomer, or salt 1730
of an isomer of methamphetamine. 1731

(2) Each law enforcement agency that, in any calendar year, 1732
arrests any person for a violation of section 2925.04 of the 1733
Revised Code that is based on the manufacture of methamphetamine 1734
or a methamphetamine product, a violation of section 2925.041 of 1735
the Revised Code that is based on the possession of chemicals 1736
sufficient to produce methamphetamine or a methamphetamine 1737

product, or a violation of any other provision of Chapter 2925. or 1738
3719. of the Revised Code that is based on the possession of 1739
chemicals sufficient to produce methamphetamine or a 1740
methamphetamine product shall prepare an annual report covering 1741
the calendar year that contains the information specified in 1742
division (C)(3) of this section relative to all arrests for 1743
violations of those sections committed under those circumstances 1744
during that calendar year and shall send the annual report, not 1745
later than the first day of March in the calendar year following 1746
the calendar year covered by the report, to the bureau of criminal 1747
identification and investigation. 1748

The law enforcement agency shall write any annual report 1749
prepared and filed under this division on the standard forms 1750
furnished by the superintendent of the bureau of criminal 1751
identification and investigation pursuant to division (C)(4) of 1752
this section. The annual report shall be a statistical report, and 1753
nothing in the report or in the information it contains shall 1754
identify, or enable the identification of, any person who was 1755
arrested and whose arrest is included in the information contained 1756
in the report. The annual report in the possession of the bureau 1757
and the information it contains are public records for the purpose 1758
of section 149.43 of the Revised Code. 1759

(3) The annual report prepared and filed by a law enforcement 1760
agency under division (C)(2) of this section shall contain all of 1761
the following information for the calendar year covered by the 1762
report: 1763

(a) The total number of arrests made by the agency in that 1764
calendar year for a violation of section 2925.04 of the Revised 1765
Code that is based on the manufacture of methamphetamine or a 1766
methamphetamine product, a violation of section 2925.041 of the 1767
Revised Code that is based on the possession of chemicals 1768
sufficient to produce methamphetamine or a methamphetamine 1769

product, or a violation of any other provision of Chapter 2925. or 1770
3719. of the Revised Code that is based on the possession of 1771
chemicals sufficient to produce methamphetamine or a 1772
methamphetamine product; 1773

(b) The total number of illegal methamphetamine manufacturing 1774
laboratories at which one or more of the arrests reported under 1775
division (C)(3)(a) of this section occurred, or that were 1776
discovered in that calendar year within the territory served by 1777
the agency but at which none of the arrests reported under 1778
division (C)(3)(a) of this section occurred. 1779

(4) The superintendent of the bureau of criminal 1780
identification and investigation shall prepare and furnish to each 1781
law enforcement agency in this state standard forms for making the 1782
annual reports required by division (C)(2) of this section. The 1783
standard forms that the superintendent prepares pursuant to this 1784
division may be in a tangible format, in an electronic format, or 1785
in both a tangible format and an electronic format. 1786

(5) The annual report required by division (C)(2) of this 1787
section is separate from, and in addition to, any report, 1788
materials, or information required under division (A) of this 1789
section or under any other provision of sections 109.57 to 109.62 1790
of the Revised Code. 1791

Sec. 109.79. (A) The Ohio peace officer training commission 1792
shall establish and conduct a training school for law enforcement 1793
officers of any political subdivision of the state or of the state 1794
public defender's office. The school shall be known as the Ohio 1795
peace officer training academy. No bailiff or deputy bailiff of a 1796
court of record of this state and no criminal investigator 1797
employed by the state public defender shall be permitted to attend 1798
the academy for training unless the employing court of the bailiff 1799
or deputy bailiff or the state public defender, whichever is 1800

applicable, has authorized the bailiff, deputy bailiff, or 1801
investigator to attend the academy. 1802

The Ohio peace officer training commission shall develop the 1803
training program, which shall include courses in both the civil 1804
and criminal functions of law enforcement officers, a course in 1805
crisis intervention with six or more hours of training, and 1806
training in the handling of missing children and child abuse and 1807
neglect cases, and shall establish rules governing qualifications 1808
for admission to the academy. The commission may require 1809
competitive examinations to determine fitness of prospective 1810
trainees, so long as the examinations or other criteria for 1811
admission to the academy are consistent with the provisions of 1812
Chapter 124. of the Revised Code. 1813

The Ohio peace officer training commission shall determine 1814
tuition costs which shall be sufficient in the aggregate to pay 1815
the costs of operating the academy. The costs of acquiring and 1816
equipping the academy shall be paid from appropriations made by 1817
the general assembly to the Ohio peace officer training commission 1818
for that purpose, ~~or~~ from gifts or grants received for that 1819
purpose, or from fees for goods related to the academy. 1820

The law enforcement officers, during the period of their 1821
training, shall receive compensation as determined by the 1822
political subdivision that sponsors them or, if the officer is a 1823
criminal investigator employed by the state public defender, as 1824
determined by the state public defender. The political subdivision 1825
may pay the tuition costs of the law enforcement officers they 1826
sponsor and the state public defender may pay the tuition costs of 1827
criminal investigators of that office who attend the academy. 1828

If trainee vacancies exist, the academy may train and issue 1829
certificates of satisfactory completion to peace officers who are 1830
employed by a campus police department pursuant to section 1713.50 1831
of the Revised Code, by a qualified nonprofit corporation police 1832

department pursuant to section 1702.80 of the Revised Code, or by
a railroad company or who are hospital police officers appointed
and commissioned by the governor pursuant to sections 4973.17 to
4973.22 of the Revised Code, provided that no such officer shall
be trained at the academy unless the officer meets the
qualifications established for admission to the academy and the
qualified nonprofit corporation police department, railroad
company, or hospital or the private college or university that
established the campus police department prepays the entire cost
of the training. A qualified nonprofit corporation police
department, railroad company, or hospital or a private college or
university that has established a campus police department is not
entitled to reimbursement from the state for any amount paid for
the cost of training the railroad company's peace officers or the
peace officers of the qualified nonprofit corporation police
department, campus police department, or hospital.

The academy shall permit investigators employed by the state
medical board to take selected courses that the board determines
are consistent with its responsibilities for initial and
continuing training of investigators as required under sections
4730.26 and 4731.05 of the Revised Code. The board shall pay the
entire cost of training that investigators receive at the academy.

(B) As used in this section:

(1) "Law enforcement officers" include any undercover drug
agent, any bailiff or deputy bailiff of a court of record, and any
criminal investigator who is employed by the state public
defender.

(2) "Undercover drug agent" means any person who:

(a) Is employed by a county, township, or municipal
corporation for the purposes set forth in division (B)(2)(b) of
this section but who is not an employee of a county sheriff's

department, of a township constable, or of the police department 1864
of a municipal corporation or township; 1865

(b) In the course of the person's employment by a county, 1866
township, or municipal corporation, investigates and gathers 1867
information pertaining to persons who are suspected of violating 1868
Chapter 2925. or 3719. of the Revised Code, and generally does not 1869
wear a uniform in the performance of the person's duties. 1870

(3) "Crisis intervention training" has the same meaning as in 1871
section 109.71 of the Revised Code. 1872

(4) "Missing children" has the same meaning as in section 1873
2901.30 of the Revised Code. 1874

Sec. 109.91. (A) There is hereby established within the 1875
office of the attorney general the crime victims assistance 1876
office. 1877

(B) There is hereby established the state victims assistance 1878
advisory committee. The committee shall consist of a chairperson, 1879
to be appointed by the attorney general, ~~four~~ three ex officio 1880
members, and fifteen members to be appointed by the attorney 1881
general as follows: one member who represents the Ohio 1882
victim-witness association; three members who represent local 1883
victim assistance programs, including one from a municipally 1884
operated program and one from a county-operated program; one 1885
member who represents the interests of elderly victims; one member 1886
who is a board member of any statewide or local organization that 1887
exists primarily to aid victims of domestic violence, or who is an 1888
employee of, or counselor for, such an organization; one member 1889
who is an employee or officer of a county probation department or 1890
a probation department operated by the department of 1891
rehabilitation and correction; one member who is a county 1892
prosecuting attorney; one member who is a city law director; one 1893

member who is a county sheriff; one member who is a member or 1894
officer of a township or municipal police department; one member 1895
who is a court of common pleas judge; one member who is a 1896
municipal court judge or county court judge; and two members who 1897
are private citizens and are not government employees. 1898

The committee shall include the following ex officio, 1899
nonvoting members: ~~the chief justice of the supreme court,~~ the 1900
attorney general, one member of the senate to be designated by the 1901
president of the senate, and one member of the house of 1902
representatives to be designated by the speaker of the house. 1903

Members of the committee shall serve without compensation, 1904
but shall be reimbursed for travel and other necessary expenses 1905
that are incurred in the conduct of their official duties as 1906
members of the committee. The chairperson and members of the 1907
committee appointed by the attorney general shall serve at the 1908
pleasure of the attorney general. The ~~chief justice of the supreme~~ 1909
~~court and the~~ attorney general shall serve on the committee until 1910
the end of the term of office that qualified ~~them~~ the attorney 1911
general for membership on the committee. The member of the senate 1912
and the member of the house of representatives shall serve at the 1913
pleasure of the president of the senate and the speaker of the 1914
house of representatives, respectively. 1915

(C) The victims assistance advisory committee shall perform 1916
both of the following duties: 1917

(1) Advise the crime victims assistance office in determining 1918
crime and delinquency victim service needs, determining crime and 1919
delinquency victim policies for the state, and improving and 1920
exercising leadership in the quality of crime and delinquency 1921
victim programs in the state; 1922

(2) Review and recommend to the crime victims assistance 1923
office the victim assistance programs that should be considered 1924

for the receipt of state financial assistance pursuant to section 1925
109.92 of the Revised Code. The financial assistance allocation 1926
recommendations of the committee shall be based on the following 1927
priorities: 1928

(a) Programs in existence on July 1, 1985, shall be given 1929
first priority; 1930

(b) Programs offering or proposing to offer the broadest 1931
range of services and referrals to the community served, including 1932
medical, psychological, financial, educational, vocational, and 1933
legal services that were not in existence on July 1, 1985, shall 1934
be given second priority; 1935

(c) Other qualified programs shall be given last priority. 1936

(D) As used in this section and section 109.92 of the Revised 1937
Code, "victim assistance program" includes, but is not limited to 1938
a program that provides at least one of the following: 1939

(1) Services to victims of any offense of violence or 1940
delinquent act that would be an offense of violence if committed 1941
by an adult; 1942

(2) Financial assistance or property repair services to 1943
victims of crime or delinquent acts; 1944

(3) Assistance to victims of crime or delinquent acts in 1945
judicial proceedings; 1946

(4) Assistance to victims of crime or delinquent acts under 1947
the operation of any political subdivision of the state or a 1948
branch of the criminal justice system set forth in division 1949
(B)(1)(a), ~~(2)(b)~~, or ~~(3)(c)~~ of section ~~181.51~~ 5502.61 of the 1950
Revised Code; 1951

(5) Technical assistance to persons or organizations that 1952
provide services to victims of crime or delinquent acts under the 1953
operation of a branch of the criminal justice system set forth in 1954

~~divisions~~ division (B)(1)(a), ~~(2)(b)~~, and ~~(3) or (c)~~ of section 1955
~~181.51~~ 5502.61 of the Revised Code. 1956

A victim assistance program does not include the program for 1957
the reparation of crime victims established pursuant to Chapter 1958
2743. of the Revised Code. 1959

Sec. 117.10. The auditor of state shall audit all public 1960
offices as provided in this chapter. The auditor of state also may 1961
audit the accounts of private institutions, associations, boards, 1962
and corporations receiving public money for their use and may 1963
require of them annual reports in such form as the auditor of 1964
state prescribes. 1965

If the auditor of state performs or contracts for the 1966
performance of an audit, including a special audit, of the public 1967
employees retirement system, school employees retirement system, 1968
state teachers retirement system, state highway patrol retirement 1969
system, or Ohio police and fire pension fund, the auditor of state 1970
shall make a timely report of the results of the audit to the Ohio 1971
retirement study council. 1972

The auditor of state may audit the accounts of any provider 1973
as defined in section 5111.06 of the Revised Code, ~~if requested by~~ 1974
~~the department of job and family services.~~ 1975

If a public office has been audited by an agency of the 1976
United States government, the auditor of state may, if satisfied 1977
that the federal audit has been conducted according to principles 1978
and procedures not contrary to those of the auditor of state, use 1979
and adopt the federal audit and report in lieu of an audit by the 1980
auditor of state's own office. 1981

Within thirty days after the creation or dissolution or the 1982
winding up of the affairs of any public office, that public office 1983
shall notify the auditor of state in writing that this action has 1984

occurred.	1985
Sec. 120.06. (A)(1) The state public defender, when	1986
designated by the court or requested by a county public defender	1987
or joint county public defender, may provide legal representation	1988
in all courts throughout the state to indigent adults and	1989
juveniles who are charged with the commission of an offense or act	1990
for which the penalty or any possible adjudication includes the	1991
potential loss of liberty.	1992
(2) The state public defender may provide legal	1993
representation to any indigent person who, while incarcerated in	1994
any state correctional institution, is charged with a felony	1995
offense, for which the penalty or any possible adjudication that	1996
may be imposed by a court upon conviction includes the potential	1997
loss of liberty.	1998
(3) The state public defender may provide legal	1999
representation to any person incarcerated in any correctional	2000
institution of the state, in any matter in which the person	2001
asserts the person is unlawfully imprisoned or detained.	2002
(4) The state public defender, in any case in which the state	2003
public defender has provided legal representation or is requested	2004
to do so by a county public defender or joint county public	2005
defender, may provide legal representation on appeal.	2006
(5) The state public defender, when designated by the court	2007
or requested by a county public defender, joint county public	2008
defender, or the director of rehabilitation and correction, shall	2009
provide legal representation in parole and probation revocation	2010
matters or matters relating to the revocation of community control	2011
or post-release control under a community control sanction or	2012
post-release control sanction, unless the state public defender	2013
finds that the alleged parole or probation violator or alleged	2014

violator of a community control sanction or post-release control 2015
sanction has the financial capacity to retain the alleged 2016
violator's own counsel. 2017

(6) If the state public defender contracts with a county 2018
public defender commission, a joint county public defender 2019
commission, or a board of county commissioners for the provision 2020
of services, under authority of division (C)(7) of section 120.04 2021
of the Revised Code, the state public defender shall provide legal 2022
representation in accordance with the contract. 2023

(B) The state public defender shall not be required to 2024
prosecute any appeal, postconviction remedy, or other proceeding 2025
pursuant to division (A)(3), (4), or (5) of this section, unless 2026
the state public defender first is satisfied that there is 2027
arguable merit to the proceeding. 2028

(C) A court may appoint counsel or allow an indigent person 2029
to select the indigent's own personal counsel to assist the state 2030
public defender as co-counsel when the interests of justice so 2031
require. When co-counsel is appointed to assist the state public 2032
defender, the co-counsel shall receive any compensation that the 2033
court may approve, not to exceed the amounts provided for in 2034
section 2941.51 of the Revised Code. 2035

(D)(1) When the state public defender is designated by the 2036
court or requested by a county public defender or joint county 2037
public defender to provide legal representation for an indigent 2038
person in any case, other than pursuant to a contract entered into 2039
under authority of division (C)(7) of section 120.04 of the 2040
Revised Code, the state public defender shall send to the county 2041
in which the case is filed ~~an itemized a bill for fifty per cent~~ 2042
~~of detailing~~ the actual cost of the representation that separately 2043
itemizes legal fees and expenses. The county, upon receipt of an 2044
itemized bill from the state public defender pursuant to this 2045

division, shall ~~pay fifty per cent of the actual cost of the legal~~ 2046
~~representation as set forth in the itemized bill.~~ pay the state 2047
public defender each of the following amounts: 2048

(a) For the amount identified as legal fees in the itemized 2049
bill, one hundred per cent of the amount identified as legal fees 2050
less the state reimbursement rate as calculated by the state 2051
public defender pursuant to section 120.34 of the Revised Code for 2052
the month the case terminated, as set forth in the itemized bill; 2053

(b) For the amount identified as expenses in the itemized 2054
bill, one hundred per cent. 2055

(2) Upon payment of the itemized bill under division (D)(1) 2056
of this section, the county may submit the cost of the expenses, 2057
excluding legal fees, to the state public defender for 2058
reimbursement pursuant to section 120.33 of the Revised Code. 2059

(3) When the state public defender provides investigation or 2060
mitigation services to private appointed counsel or to a county or 2061
joint county public defender as approved by the appointing court, 2062
other than pursuant to a contract entered into under authority of 2063
division (C)(7) of section 120.04 of the Revised Code, the state 2064
public defender shall send to the county in which the case is 2065
filed a bill itemizing the actual cost of the services provided. 2066
The county, upon receipt of an itemized bill from the state public 2067
defender pursuant to this division, shall pay one hundred per cent 2068
of the amount as set forth in the itemized bill. Upon payment of 2069
the itemized bill received pursuant to this division, the county 2070
may submit the cost of the investigation and mitigation services 2071
to the state public defender for reimbursement pursuant to section 2072
120.33 of the Revised Code. 2073

(4) There is hereby created in the state treasury the county 2074
representation fund for the deposit of moneys received from 2075
counties under this division. All moneys credited to the fund 2076

shall be used by the state public defender to provide legal 2077
representation for indigent persons when designated by the court 2078
or requested by a county or joint county public defender or to 2079
provide investigation or mitigation services, including 2080
investigation or mitigation services to private appointed counsel 2081
or a county or joint county public defender, as approved by the 2082
court. 2083

(E)(1) Notwithstanding any contrary provision of sections 2084
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 2085
that pertains to representation by the attorney general, an 2086
assistant attorney general, or special counsel of an officer or 2087
employee, as defined in section 109.36 of the Revised Code, or of 2088
an entity of state government, the state public defender may elect 2089
to contract with, and to have the state pay pursuant to division 2090
(E)(2) of this section for the services of, private legal counsel 2091
to represent the Ohio public defender commission, the state public 2092
defender, assistant state public defenders, other employees of the 2093
commission or the state public defender, and attorneys described 2094
in division (C) of section 120.41 of the Revised Code in a 2095
malpractice or other civil action or proceeding that arises from 2096
alleged actions or omissions related to responsibilities derived 2097
pursuant to this chapter, or in a civil action that is based upon 2098
alleged violations of the constitution or statutes of the United 2099
States, including section 1983 of Title 42 of the United States 2100
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 2101
arises from alleged actions or omissions related to 2102
responsibilities derived pursuant to this chapter, if the state 2103
public defender determines, in good faith, that the defendant in 2104
the civil action or proceeding did not act manifestly outside the 2105
scope of the defendant's employment or official responsibilities, 2106
with malicious purpose, in bad faith, or in a wanton or reckless 2107
manner. If the state public defender elects not to contract 2108
pursuant to this division for private legal counsel in a civil 2109

action or proceeding, then, in accordance with sections 109.02, 2110
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 2111
attorney general shall represent or provide for the representation 2112
of the Ohio public defender commission, the state public defender, 2113
assistant state public defenders, other employees of the 2114
commission or the state public defender, or attorneys described in 2115
division (C) of section 120.41 of the Revised Code in the civil 2116
action or proceeding. 2117

(2)(a) Subject to division (E)(2)(b) of this section, payment 2118
from the state treasury for the services of private legal counsel 2119
with whom the state public defender has contracted pursuant to 2120
division (E)(1) of this section shall be accomplished only through 2121
the following procedure: 2122

(i) The private legal counsel shall file with the attorney 2123
general a copy of the contract; a request for an award of legal 2124
fees, court costs, and expenses earned or incurred in connection 2125
with the defense of the Ohio public defender commission, the state 2126
public defender, an assistant state public defender, an employee, 2127
or an attorney in a specified civil action or proceeding; a 2128
written itemization of those fees, costs, and expenses, including 2129
the signature of the state public defender and the state public 2130
defender's attestation that the fees, costs, and expenses were 2131
earned or incurred pursuant to division (E)(1) of this section to 2132
the best of the state public defender's knowledge and information; 2133
a written statement whether the fees, costs, and expenses are for 2134
all legal services to be rendered in connection with that defense, 2135
are only for legal services rendered to the date of the request 2136
and additional legal services likely will have to be provided in 2137
connection with that defense, or are for the final legal services 2138
rendered in connection with that defense; a written statement 2139
indicating whether the private legal counsel previously submitted 2140
a request for an award under division (E)(2) of this section in 2141

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

(iii) The attorney general shall forward a copy of the
document prepared pursuant to division (E)(2)(a)(ii) of this
section to the director of budget and management. The award of
legal fees, court costs, or expenses shall be paid out of the
state public defender's appropriations, to the extent there is a

sufficient available balance in those appropriations. If the state
public defender does not have a sufficient available balance in
the state public defender's appropriations to pay the entire award
of legal fees, court costs, or expenses, the director shall make
application for a transfer of appropriations out of the emergency
purposes account or any other appropriation for emergencies or
contingencies in an amount equal to the portion of the award that
exceeds the sufficient available balance in the state public
defender's appropriations. A transfer of appropriations out of the
emergency purposes account or any other appropriation for
emergencies or contingencies shall be authorized if there are
sufficient moneys greater than the sum total of then pending
emergency purposes account requests, or requests for releases from
the other appropriation. If a transfer of appropriations out of
the emergency purposes account or other appropriation for
emergencies or contingencies is made to pay an amount equal to the
portion of the award that exceeds the sufficient available balance
in the state public defender's appropriations, the director shall
cause the payment to be made to the private legal counsel. If
sufficient moneys do not exist in the emergency purposes account
or other appropriation for emergencies or contingencies to pay an
amount equal to the portion of the award that exceeds the
sufficient available balance in the state public defender's
appropriations, the private legal counsel shall request the
general assembly to make an appropriation sufficient to pay an
amount equal to the portion of the award that exceeds the
sufficient available balance in the state public defender's
appropriations, and no payment in that amount shall be made until
the appropriation has been made. The private legal counsel shall
make the request during the current biennium and during each
succeeding biennium until a sufficient appropriation is made.

(b) An award of legal fees, court costs, and expenses 2205

pursuant to division (E) of this section is subject to the 2206
following limitations: 2207

(i) The maximum award or maximum aggregate of a series of 2208
awards of legal fees, court costs, and expenses to the private 2209
legal counsel in connection with the defense of the Ohio public 2210
defender commission, the state public defender, an assistant state 2211
public defender, an employee, or an attorney in a specified civil 2212
action or proceeding shall not exceed fifty thousand dollars. 2213

(ii) The private legal counsel shall not be awarded legal 2214
fees, court costs, or expenses to the extent the fees, costs, or 2215
expenses are covered by a policy of malpractice or other 2216
insurance. 2217

(iii) The private legal counsel shall be awarded legal fees 2218
and expenses only to the extent that the fees and expenses are 2219
reasonable in light of the legal services rendered by the private 2220
legal counsel in connection with the defense of the Ohio public 2221
defender commission, the state public defender, an assistant state 2222
public defender, an employee, or an attorney in a specified civil 2223
action or proceeding. 2224

(c) If, pursuant to division (E)(2)(a) of this section, the 2225
attorney general denies a request for an award of legal fees, 2226
court costs, or expenses to private legal counsel because of the 2227
application of a limitation specified in division (E)(2)(b) of 2228
this section, the attorney general shall notify the private legal 2229
counsel in writing of the denial and of the limitation applied. 2230

(d) If, pursuant to division (E)(2)(c) of this section, a 2231
private legal counsel receives a denial of an award notification 2232
or if a private legal counsel refuses to approve a document under 2233
division (E)(2)(a)(ii) of this section because of the proposed 2234
application of a limitation specified in division (E)(2)(b) of 2235
this section, the private legal counsel may commence a civil 2236

action against the attorney general in the court of claims to 2237
prove the private legal counsel's entitlement to the award sought, 2238
to prove that division (E)(2)(b) of this section does not prohibit 2239
or otherwise limit the award sought, and to recover a judgment for 2240
the amount of the award sought. A civil action under division 2241
(E)(2)(d) of this section shall be commenced no later than two 2242
years after receipt of a denial of award notification or, if the 2243
private legal counsel refused to approve a document under division 2244
(E)(2)(a)(ii) of this section because of the proposed application 2245
of a limitation specified in division (E)(2)(b) of this section, 2246
no later than two years after the refusal. Any judgment of the 2247
court of claims in favor of the private legal counsel shall be 2248
paid from the state treasury in accordance with division (E)(2)(a) 2249
of this section. 2250

(F) If a court appoints the office of the state public 2251
defender to represent a petitioner in a postconviction relief 2252
proceeding under section 2953.21 of the Revised Code, the 2253
petitioner has received a sentence of death, and the proceeding 2254
relates to that sentence, all of the attorneys who represent the 2255
petitioner in the proceeding pursuant to the appointment, whether 2256
an assistant state public defender, the state public defender, or 2257
another attorney, shall be certified under Rule 20 of the Rules of 2258
Superintendence for the Courts of Ohio to represent indigent 2259
defendants charged with or convicted of an offense for which the 2260
death penalty can be or has been imposed. 2261

(G) As used in this section: 2262

(1) "Community control sanction" has the same meaning as in 2263
section 2929.01 of the Revised Code. 2264

(2) "Post-release control sanction" has the same meaning as 2265
in section 2967.01 of the Revised Code. 2266

Sec. 120.13. (A) The county commissioners in any county may 2267
establish a county public defender commission. The commission 2268
shall have five members, three of whom shall be appointed by the 2269
board of county commissioners, and two by the judge, or the 2270
presiding judge if there is one, of the court of common pleas of 2271
the county. At least one member appointed by each of these 2272
appointing bodies shall be an attorney admitted to the practice of 2273
law in this state. 2274

(B) The board of county commissioners shall select a specific 2275
day for the county public defender commission to be established 2276
and on which all members' appointments shall take effect, and 2277
shall notify the Ohio public defender commission of the date. 2278

(C) Of the initial appointments made to the county public 2279
defender commission, two appointments by the county commissioners 2280
and one appointment by the court shall be for a term of two years 2281
ending two years after the date the commission is established, and 2282
one appointment by each of the appointing bodies shall be for a 2283
term ending four years after the date the commission is 2284
established. Thereafter, terms of office shall be for four years, 2285
each term ending on the same day of the same month of the year as 2286
did the term which it succeeds. Each member shall hold office from 2287
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 2288
the member was appointed. Any member appointed to fill a vacancy 2289
occurring prior to the expiration of the term for which ~~his~~ the 2290
member's predecessor was appointed shall hold office for the 2291
remainder of such term. Any member shall continue in office 2292
subsequent to the expiration date of ~~his~~ the member's term until 2293
~~his~~ a successor takes office, or until a period of sixty days has 2294
elapsed, whichever occurs first. 2295

(D) The members of the commission shall choose as ~~chairman~~ 2296
chairperson one of the commission members, who shall serve as 2297
~~chairman~~ chairperson for two years. Meetings shall be held at 2298

least quarterly and at such other times as called by the ~~chairman~~ 2299
chairperson or by request of the county public defender. Members 2300
of the commission may receive an amount fixed by the county 2301
commissioners, but not in excess of the amounts set for the 2302
members of the Ohio public defender commission pursuant to section 2303
124.14 of the Revised Code per diem for every meeting of the board 2304
they attend, and necessary expenses including mileage for each 2305
mile necessarily traveled. 2306

(E) The county commissioners may terminate the county public 2307
defender commission at any time if at least ninety days prior to 2308
termination, the commissioners notify the Ohio public defender 2309
commission in writing of the termination date. Upon the 2310
termination date all pending county public defender matters shall 2311
be transferred to the state public defender, a joint county public 2312
defender, or appointed counsel. 2313

(F) ~~Fifty per cent of the~~ The cost of representation in all 2314
matters assumed by the state public defender shall be charged to 2315
the counties in accordance with division (D) of section 120.06 of 2316
the Revised Code. 2317

Sec. 120.23. (A) The boards of county commissioners in two or 2318
more adjoining or neighboring counties may form themselves into a 2319
joint board and proceed to organize a district for the 2320
establishment of a joint county public defender commission. The 2321
commission shall have three members from each county, who shall be 2322
appointed by the board of county commissioners of the county. 2323

(B) The boards shall agree on a specific date for the joint 2324
county public defender commission to be established, on which date 2325
the appointments of all members shall take effect. The joint board 2326
shall notify the Ohio public defender commission of the date. 2327

(C) Of the initial appointments made by each county to the 2328
joint county public defender commission, one appointment shall be 2329

for a term of one year ending one year after the date the
commission is established, one appointment shall be for a term of
two years ending two years after the date the commission is
established, and one appointment shall be for a period of three
years, ending three years after the date the commission is
established. Thereafter, terms of office shall be for three 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 the 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 joint county public defender.
Members of the commission may receive an amount fixed by the
agreement of the boards of commissioners of the counties in the
district, but not in excess of the amount 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 commission they
attend, and necessary expenses including mileage for each mile
necessarily traveled.

(E) The agreement of the boards of county commissioners
establishing the joint county public defender commission shall
provide for the allocation of the proportion of expenses to be
paid by each county, which may be based upon population, number of

cases, or such other factors as the commissioners determine to be 2362
appropriate. The county commissioners may amend their agreement 2363
from time to time to provide for a different allocation of the 2364
proportion of expenses to be paid by each county. 2365

(F) The county auditor of the county~~r~~, with the greatest 2366
population is hereby designated as the fiscal officer of a joint 2367
county public defender district organized under this section. The 2368
county auditors of the several counties composing the joint county 2369
public defender commission district shall meet at the commission 2370
office not less than once in each six months, to adjust accounts 2371
and to transact such other duties in connection with the 2372
commission as pertain to the business of their office. 2373

(G) Each member of the board of county commissioners who 2374
meets by appointment to consider the organization of a joint 2375
county public defender commission shall, upon presentation of 2376
properly certified accounts, be paid ~~his~~ the member's necessary 2377
expenses upon a warrant drawn by the county auditor of ~~his~~ the 2378
member's county. 2379

(H) The board of county commissioners of any county within a 2380
joint county public defender commission district may withdraw from 2381
the district. Such withdrawal shall not be effective until at 2382
least ninety days after the board has notified the Ohio public 2383
defender commission, the joint county public defender commission 2384
of the district, and each board of county commissioners in the 2385
district, in writing of the termination date. The failure of a 2386
board of county commissioners to approve an annual operating 2387
budget for the office of the joint county public defender as 2388
provided in division (C)(1) of section 120.24 of the Revised Code 2389
constitutes a notice of withdrawal by the county from the 2390
district, effective on the ninetieth day after commencement of the 2391
next fiscal year. Upon the termination date, all joint county 2392
public defender matters relating to the withdrawing county shall 2393

be transferred to the state public defender, a county public 2394
defender, or appointed counsel. 2395

(I) ~~Fifty per cent of the~~ The cost of representation in all 2396
matters assumed by the state public defender shall be charged to 2397
the counties in accordance with division (D) of section 120.06 of 2398
the Revised Code. 2399

Members of the joint county public defender commission who 2400
are residents of a county withdrawing from such district are 2401
deemed to have resigned their positions upon the completion of the 2402
withdrawal procedure provided by this section. Vacancies thus 2403
created shall not be filled. 2404

If two or more counties remain within the district after the 2405
withdrawal, the boards of county commissioners of the remaining 2406
adjoining or neighboring counties may agree to continue the 2407
operation of the joint county public defender commission and to 2408
reallocate the proportionate share of expenses to be paid by each 2409
participating county. 2410

Sec. 120.36. (A) If a person who is a defendant in a criminal 2411
case or a party in a case in juvenile court requests or is 2412
provided a state public defender, a county or joint county public 2413
defender, or any other counsel appointed by the court, the court 2414
in which the criminal case is initially filed or the juvenile 2415
court, whichever is applicable, shall assess, unless the 2416
application fee is waived or reduced, a non-refundable application 2417
fee of twenty-five dollars. 2418

The court shall direct the person to pay the application fee 2419
to the clerk of the court that assessed the fee. The person shall 2420
pay the application fee at the time the person files an affidavit 2421
of indigency or a financial disclosure form with the court or 2422
within seven days of that date. If the person does not pay the 2423

application fee within that seven-day period, the court shall 2424
assess the application fee at sentencing or at the final 2425
disposition of the case. 2426

If a case involving a felony that was initially filed in a 2427
municipal court or a county court is bound over to the court of 2428
common pleas and the defendant in the case failed to pay the 2429
application fee in the municipal court or county court, the court 2430
of common pleas shall assess the application fee at the initial 2431
appearance of the defendant in the court of common pleas. If a 2432
case involving an alleged delinquent child is transferred to the 2433
court of common pleas for prosecution of the involved child as an 2434
adult, the court of common pleas shall assess the application fee 2435
at the initial appearance of the child in the court of common 2436
pleas. 2437

The court shall assess an application fee pursuant to this 2438
section one time per case. An appeal shall not be considered a 2439
separate case for the purpose of assessing the application fee. 2440
The court may waive or reduce the fee upon a finding that the 2441
person lacks financial resources that are sufficient to pay the 2442
fee or that payment of the fee would result in an undue hardship. 2443

(B) No court, state public defender, county or joint county 2444
public defender, or other counsel appointed by the court shall 2445
deny a person the assistance of counsel solely due to the person's 2446
failure to pay the application fee assessed pursuant to division 2447
(A) of this section. A person's present inability, failure, or 2448
refusal to pay the application fee shall not disqualify that 2449
person from legal representation. 2450

(C) The application fee assessed pursuant to division (A) of 2451
this section is separate from and in addition to any other amount 2452
assessed against a person who is found to be able to contribute 2453
toward the cost of the person's legal representation pursuant to 2454

division (D) of section 2941.51 of the Revised Code.

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(D) The clerk of the court that assessed the fees shall forward all application fees collected pursuant to this section to the county treasurer for deposit in the county treasury. The county shall retain eighty per cent of the application fees so collected to offset the costs of providing legal representation to indigent persons. Each month, the county auditor shall remit twenty per cent of the application fees so collected to the state public defender. The state public defender shall deposit the remitted fees into the state treasury to the credit of the client payment fund created pursuant to division (B)(5) of section 120.04 of the Revised Code. The state public defender may use that money in accordance with that section.

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

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(1) The number of persons in the previous calendar year who requested or were provided a state public defender, county or joint county public defender, or other counsel appointed by the court;

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(2) The number of persons in the previous calendar year for whom the court waived the application fee pursuant to division (A) of this section;

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

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

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

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(F) As used in this section: 2485

(1) "Clerk of court" means the clerk of the court of common 2486
pleas of the county, the clerk of the juvenile court of the 2487
county, the clerk of a municipal court in the county, the clerk of 2488
a county-operated municipal court, or the clerk of a county court 2489
in the county, whichever is applicable. 2490

(2) "County-operated municipal court" has the same meaning as 2491
in section 1901.03 of the Revised Code. 2492

Sec. 120.52. There is hereby established in the state 2493
treasury the legal aid fund, which shall be for the charitable 2494
public purpose of providing financial assistance to legal aid 2495
societies that provide civil legal services to indigents. The fund 2496
shall contain all funds credited to it by the treasurer of state 2497
pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09 2498
and 4705.10 of the Revised Code and income from investment 2499
credited to it by the treasurer of state in accordance with this 2500
section. 2501

The treasurer of state may invest moneys contained in the 2502
legal aid fund in any manner authorized by the Revised Code for 2503
the investment of state moneys. However, no such investment shall 2504
interfere with any apportionment, allocation, or payment of moneys 2505
in January and July of each calendar year, as required by section 2506
120.53 of the Revised Code. All income earned as a result of any 2507
such investment shall be credited to the fund. 2508

The state public defender, through the Ohio legal assistance 2509
foundation, shall administer the payment of moneys out of the 2510
fund. Four and one-half per cent of the moneys in the fund shall 2511
be reserved for the actual, reasonable costs of administering 2512
sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 2513
3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that 2514

are reserved for administrative costs but that are not used for 2515
actual, reasonable administrative costs shall be set aside for use 2516
in the manner described in division (A) of section 120.521 of the 2517
Revised Code. The remainder of the moneys in the legal aid fund 2518
shall be distributed in accordance with section 120.53 of the 2519
Revised Code. The Ohio legal assistance foundation shall 2520
establish, in accordance with Chapter 119. of the Revised Code, 2521
rules governing the administration of the legal aid fund, 2522
including the ~~program~~ programs established under sections 1901.26, 2523
1907.24, 2303.201, 4705.09, and 4705.10 of the Revised Code 2524
regarding interest on interest-bearing trust accounts of an 2525
attorney, law firm, or legal professional association. 2526

Sec. 120.53. (A) A legal aid society that operates within the 2527
state may apply to the Ohio legal assistance foundation for 2528
financial assistance from the legal aid fund established by 2529
section 120.52 of the Revised Code to be used for the funding of 2530
the society during the calendar year following the calendar year 2531
in which application is made. 2532

(B) An application for financial assistance made under 2533
division (A) of this section shall be submitted by the first day 2534
of November of the calendar year preceding the calendar year for 2535
which financial assistance is desired and shall include all of the 2536
following: 2537

(1) Evidence that the applicant is incorporated in this state 2538
as a nonprofit corporation; 2539

(2) A list of the trustees of the applicant; 2540

(3) The proposed budget of the applicant for these funds for 2541
the following calendar year; 2542

(4) A summary of the services to be offered by the applicant 2543
in the following calendar year; 2544

(5) A specific description of the territory or constituency served by the applicant;	2545
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(6) An estimate of the number of persons to be served by the applicant during the following calendar year;	2547
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(7) A general description of the additional sources of the applicant's funding;	2549
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(8) The amount of the applicant's total budget for the calendar year in which the application is filed that it will expend in that calendar year for legal services in each of the counties it serves;	2551
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(9) A specific description of any services, programs, training, and legal technical assistance to be delivered by the applicant or by another person pursuant to a contract with the applicant, including, but not limited to, by private attorneys or through reduced fee plans, judicare panels, organized pro bono programs, and mediation programs.	2555
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(C) The Ohio legal assistance foundation shall determine whether each applicant that filed an application for financial assistance under division (A) of this section in a calendar year is eligible for financial assistance under this section. To be eligible for such financial assistance, an applicant shall satisfy the criteria for being a legal aid society and shall be in compliance with the provisions of sections 120.51 to 120.55 of the Revised Code and with the rules and requirements the foundation establishes pursuant to section 120.52 of the Revised Code. The Ohio legal assistance foundation then, on or before the fifteenth day of December of the calendar year in which the application is filed, shall notify each such applicant, in writing, whether it is eligible for financial assistance under this section, and if it is eligible, estimate the amount that will be available for that applicant for each six-month distribution period, as determined	2561
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under division (D) of this section.

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

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All moneys contained in the fund on the first day of January
of a calendar year shall be allocated, after deduction of the
costs of administering sections 120.51 to 120.55 and sections
1901.26, 1907.24, 2303.201, 3953.231, 4705.09₁ and 4705.10 of the
Revised Code that are authorized by section 120.52 of the Revised
Code, according to this section and shall be distributed
accordingly on the thirty-first day of January of that calendar
year, and all moneys contained in the fund on the first day of
July of that calendar year shall be allocated, after deduction of
the costs of administering those sections that are authorized by
section 120.52 of the Revised Code, according to this section and
shall be distributed accordingly on the thirty-first day of July
of that calendar year. In making the allocations under this
section, the moneys in the fund that were generated pursuant to
sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09₁ and
4705.10 of the Revised Code and all income generated from the
investment of such moneys shall be apportioned as follows:

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

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(a) Five per cent of the moneys remaining in the fund, ~~plus
any moneys reserved for administrative costs under that section
that are not used for actual, reasonable administrative costs,~~
shall be reserved for use in the manner described in division (A)
of section 120.521 of the Revised Code or for distribution to

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legal aid societies that provide assistance to special population 2607
groups of their eligible clients, engage in special projects that 2608
have a substantial impact on their local service area or on 2609
significant segments of the state's poverty population, or provide 2610
legal training or support to other legal aid societies in the 2611
state; 2612

(b) After deduction of the amount described in division 2613
(D)(1)(a) of this section, one and three-quarters per cent of the 2614
moneys remaining in the fund shall be apportioned among entities 2615
that received financial assistance from the legal aid fund prior 2616
to the effective date of this amendment but that, on and after the 2617
effective date of this amendment, no longer qualify as a legal aid 2618
society that is eligible for financial assistance under this 2619
section. 2620

(c) After deduction of the amounts described in divisions 2621
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 2622
remaining in the fund shall be placed in the legal assistance 2623
foundation fund for use in the manner described in division (A) of 2624
section 120.521 of the Revised Code. 2625

(2) After deduction of the actual, reasonable administrative 2626
costs under section 120.52 of the Revised Code and after deduction 2627
of the amounts identified in ~~division~~ divisions (D)(1)(a) ~~and,~~ 2628
(b), and (c) of this section, the remaining moneys shall be 2629
apportioned among the counties that are served by eligible legal 2630
aid societies that have applied for financial assistance under 2631
this section so that each such county is apportioned a portion of 2632
those moneys, based upon the ratio of the number of indigents who 2633
reside in that county to the total number of indigents who reside 2634
in all counties of this state that are served by eligible legal 2635
aid societies that have applied for financial assistance under 2636
this section. Subject to division (E) of this section, the moneys 2637
apportioned to a county under this division then shall be 2638

allocated to the eligible legal aid society that serves the county 2639
and that has applied for financial assistance under this section. 2640
For purposes of this division, the source of data identifying the 2641
number of indigent persons who reside in a county shall be the 2642
most recent decennial census figures from the United States 2643
department of commerce, division of census. 2644

(E) If the Ohio legal assistance foundation, in attempting to 2645
make an allocation of moneys under division (D)(2) of this 2646
section, determines that a county that has been apportioned money 2647
under that division is served by more than one eligible legal aid 2648
society that has applied for financial assistance under this 2649
section, the Ohio legal assistance foundation shall allocate the 2650
moneys that have been apportioned to that county under division 2651
(D)(2) of this section among all eligible legal aid societies that 2652
serve that county and that have applied for financial assistance 2653
under this section on a pro rata basis, so that each such eligible 2654
society is allocated a portion based upon the amount of its total 2655
budget expended in the prior calendar year for legal services in 2656
that county as compared to the total amount expended in the prior 2657
calendar year for legal services in that county by all eligible 2658
legal aid societies that serve that county and that have applied 2659
for financial assistance under this section. 2660

(F) Moneys allocated to eligible applicants under this 2661
section shall be paid twice annually, on the thirty-first day of 2662
January and on the thirty-first day of July of the calendar year 2663
following the calendar year in which the application is filed. 2664

(G)(1) A legal aid society that receives financial assistance 2665
in any calendar year under this section shall file an annual 2666
report with the Ohio legal assistance foundation detailing the 2667
number and types of cases handled, and the amount and types of 2668
legal training, legal technical assistance, and other service 2669
provided, by means of that financial assistance. No information 2670

contained in the report shall identify or enable the 2671
identification of any person served by the legal aid society or in 2672
any way breach client confidentiality. 2673

(2) The Ohio legal assistance foundation shall make an annual 2674
report to the governor, the general assembly, and the supreme 2675
court on the distribution and use of the legal aid fund. The 2676
foundation also shall include in the annual report an audited 2677
financial statement of all gifts, bequests, donations, 2678
contributions, and other moneys the foundation receives. No 2679
information contained in the report shall identify or enable the 2680
identification of any person served by a legal aid society, or in 2681
any way breach confidentiality. 2682

(H) A legal aid society may enter into agreements for the 2683
provision of services, programs, training, or legal technical 2684
assistance for the legal aid society or to indigent persons. 2685

Sec. 121.37. (A)(1) There is hereby created the Ohio family 2686
and children first cabinet council. The council shall be composed 2687
of the superintendent of public instruction and the directors of 2688
youth services, job and family services, mental health, health, 2689
alcohol and drug addiction services, mental retardation and 2690
developmental disabilities, and budget and management. The 2691
chairperson of the council shall be the governor or the governor's 2692
designee and shall establish procedures for the council's internal 2693
control and management. 2694

(2) The purpose of the cabinet council is to help families 2695
seeking government services. This section shall not be interpreted 2696
or applied to usurp the role of parents, but solely to streamline 2697
and coordinate existing government services for families seeking 2698
assistance for their children. 2699

In seeking to fulfill its purpose, the council may do any of 2700

the following: 2701

(a) Advise and make recommendations to the governor and 2702
general assembly regarding the provision of services to children; 2703

(b) Advise and assess local governments on the coordination 2704
of service delivery to children; 2705

(c) Hold meetings at such times and places as may be 2706
prescribed by the council's procedures and maintain records of the 2707
meetings, except that records identifying individual children are 2708
confidential and shall be disclosed only as provided by law; 2709

(d) Develop programs and projects, including pilot projects, 2710
to encourage coordinated efforts at the state and local level to 2711
improve the state's social service delivery system; 2712

(e) Enter into contracts with and administer grants to county 2713
family and children first councils, as well as other county or 2714
multicounty organizations to plan and coordinate service delivery 2715
between state agencies and local service providers for families 2716
and children; 2717

(f) Enter into contracts with and apply for grants from 2718
federal agencies or private organizations; 2719

(g) Enter into interagency agreements to encourage 2720
coordinated efforts at the state and local level to improve the 2721
state's social service delivery system. The agreements may include 2722
provisions regarding the receipt, transfer, and expenditure of 2723
funds; 2724

(h) Identify public and private funding sources for services 2725
provided to alleged or adjudicated unruly children and children 2726
who are at risk of being alleged or adjudicated unruly children, 2727
including regulations governing access to and use of the services; 2728

(i) Collect information provided by local communities 2729
regarding successful programs for prevention, intervention, and 2730

treatment of unruly behavior, including evaluations of the programs; 2731
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(j) Identify and disseminate publications regarding alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children and regarding programs serving those types of children; 2733
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(k) Maintain an inventory of strategic planning facilitators 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. 2737
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(3) The cabinet council shall provide for the following: 2741

(a) Reviews of service and treatment plans for children for which such reviews are requested; 2742
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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; 2744
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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 Individuals with Disabilities Education Act of 2004," 20 U.S.C.A. 1400, as amended. 2747
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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 2755
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individuals:	2761
(a) At least three individuals <u>who are not employed by an agency represented on the council and</u> 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.	2762 2763 2764 2765 2766 2767
(b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.	2768 2769 2770 2771 2772 2773 2774
(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.	2775 2776 2777 2778 2779
(d) The director of the county department of job and family services;	2780 2781
(e) The executive director of the county agency responsible for the administration of <u>public</u> children services pursuant to section 5153.15 of the Revised Code <u>agency</u> ;	2782 2783 2784
(f) The superintendent of the county board of mental retardation and developmental disabilities;	2785 2786
(g) The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service;	2787 2788 2789 2790

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

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

(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.

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 2821
being shared. The appeals process may be accessed only by a 2822
majority vote of the council members who are required to serve on 2823
the council. Upon appeal, the cabinet council may order that state 2824
funds for services to children and families be redirected to a 2825
county's board of county commissioners. 2826

(2) A The purpose of the county council is to streamline and 2827
coordinate existing government services for families seeking 2828
services for their children. In seeking to fulfill its purpose, a 2829
county council shall provide for the following: 2830

(a) Referrals to the cabinet council of those children for 2831
whom the county council cannot provide adequate services; 2832

(b) Development and implementation of a process that annually 2833
evaluates and prioritizes services, fills service gaps where 2834
possible, and invents new approaches to achieve better results for 2835
families and children; 2836

(c) Participation in the development of a countywide, 2837
comprehensive, coordinated, multi-disciplinary, interagency system 2838
for infants and toddlers with developmental disabilities or delays 2839
and their families, as established pursuant to federal grants 2840
received and administered by the department of health for early 2841
intervention services under the "Education of the Handicapped Act 2842
Amendments of 1986"; 2843

(d) Maintenance of an accountability system to monitor the 2844
county council's progress in achieving results for families and 2845
children; 2846

(e) Establishment of a mechanism to ensure ongoing input from 2847
a broad representation of families who are receiving services 2848
within the county system. 2849

(3)(a) Except as provided in division (B)(3)(b) of this 2850

section, a county council shall comply with the policies, 2851
procedures, and activities prescribed by the rules or interagency 2852
agreements of a state department participating on the cabinet 2853
council whenever the county council performs a function subject to 2854
those rules or agreements. 2855

(b) On application of a county council, the cabinet council 2856
may grant an exemption from any rules or interagency agreements of 2857
a state department participating on the council if an exemption is 2858
necessary for the council to implement an alternative program or 2859
approach for service delivery to families and children. The 2860
application shall describe the proposed program or approach and 2861
specify the rules or interagency agreements from which an 2862
exemption is necessary. The cabinet council shall approve or 2863
disapprove the application in accordance with standards and 2864
procedures it shall adopt. If an application is approved, the 2865
exemption is effective only while the program or approach is being 2866
implemented, including a reasonable period during which the 2867
program or approach is being evaluated for effectiveness. 2868

(4)(a) Each county council shall designate an administrative 2869
agent for the council from among the following public entities: 2870
the board of alcohol, drug addiction, and mental health services, 2871
including a board of alcohol and drug addiction or a community 2872
mental health board if the county is served by separate boards; 2873
the board of county commissioners; any board of health of the 2874
county's city and general health districts; the county department 2875
of job and family services; the county agency responsible for the 2876
administration of children services pursuant to section 5153.15 of 2877
the Revised Code; the county board of mental retardation and 2878
developmental disabilities; any of the county's boards of 2879
education or governing boards of educational service centers; or 2880
the county's juvenile court. Any of the foregoing public entities, 2881
other than the board of county commissioners, may decline to serve 2882

as the council's administrative agent. 2883

A county council's administrative agent shall serve as the 2884
council's appointing authority for any employees of the council. 2885
The council shall file an annual budget with its administrative 2886
agent, with copies filed with the county auditor and with the 2887
board of county commissioners, unless the board is serving as the 2888
council's administrative agent. The council's administrative agent 2889
shall ensure that all expenditures are handled in accordance with 2890
policies, procedures, and activities prescribed by state 2891
departments in rules or interagency agreements that are applicable 2892
to the council's functions. 2893

The administrative agent for a county council may do any of 2894
the following on behalf of the council: 2895

(i) Enter into agreements or administer contracts with public 2896
or private entities to fulfill specific council business. Such 2897
agreements and contracts are exempt from the competitive bidding 2898
requirements of section 307.86 of the Revised Code if they have 2899
been approved by the county council and they are for the purchase 2900
of family and child welfare or child protection services or other 2901
social or job and family services for families and children. The 2902
approval of the county council is not required to exempt 2903
agreements or contracts entered into under section 5139.34, 2904
5139.41, or 5139.43 of the Revised Code from the competitive 2905
bidding requirements of section 307.86 of the Revised Code. 2906

(ii) As determined by the council, provide financial 2907
stipends, reimbursements, or both, to family representatives for 2908
expenses related to council activity; 2909

(iii) Receive by gift, grant, devise, or bequest any moneys, 2910
lands, or other property for the purposes for which the council is 2911
established. The agent shall hold, apply, and dispose of the 2912
moneys, lands, or other property according to the terms of the 2913

gift, grant, devise, or bequest. Any interest or earnings shall be 2914
treated in the same manner and are subject to the same terms as 2915
the gift, grant, devise, or bequest from which it accrues. 2916

(b)(i) If the county council designates the board of county 2917
commissioners as its administrative agent, the board may, by 2918
resolution, delegate any of its powers and duties as 2919
administrative agent to an executive committee the board 2920
establishes from the membership of the county council. The board 2921
shall name to the executive committee at least the individuals 2922
described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this 2923
section and may appoint the president of the board or another 2924
individual as the chair of the executive committee. The executive 2925
committee must include at least one family county council 2926
representative who does not have a family member employed by an 2927
agency represented on the council. 2928

(ii) The executive committee may, with the approval of the 2929
board, hire an executive director to assist the county council in 2930
administering its powers and duties. The executive director shall 2931
serve in the unclassified civil service at the pleasure of the 2932
executive committee. The executive director may, with the approval 2933
of the executive committee, hire other employees as necessary to 2934
properly conduct the county council's business. 2935

(iii) The board may require the executive committee to submit 2936
an annual budget to the board for approval and may amend or repeal 2937
the resolution that delegated to the executive committee its 2938
authority as the county council's administrative agent. 2939

(5) Two or more county councils may enter into an agreement 2940
to administer their county councils jointly by creating a regional 2941
family and children first council. A regional council possesses 2942
the same duties and authority possessed by a county council, 2943
except that the duties and authority apply regionally rather than 2944

to individual counties. Prior to entering into an agreement to
create a regional council, the members of each county council to
be part of the regional council shall meet to determine whether
all or part of the members of each county council will serve as
members of the regional council.

(6) A board of county commissioners may approve a resolution
by a majority vote of the board's members that requires the county
council to submit a statement to the board each time the council
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 county service coordination mechanism shall serve
as the guiding document for coordination of services in the
county. For children who also receive services under the help me
grow program, the service coordination mechanism shall be
consistent with rules adopted by the department of health under
section 3701.61 of the Revised Code. All family service
coordination plans shall be developed in accordance with the
county service coordination mechanism. The mechanism shall be
developed and approved with the participation of the county

entities representing child welfare; mental retardation and 2976
developmental disabilities; alcohol, drug addiction, and mental 2977
health services; health; juvenile judges; education; the county 2978
family and children first council; and the county early 2979
intervention collaborative established pursuant to the federal 2980
early intervention program operated under the "Education of the 2981
Handicapped Act Amendments of 1986." The county shall establish an 2982
implementation schedule for the mechanism. The cabinet council may 2983
monitor the implementation and administration of each county's 2984
service coordination mechanism. 2985

Each mechanism shall include all of the following: 2986

(1) ~~A procedure for assessing the needs of any child,~~ 2987
~~including a child who is an abused, neglected, dependent, unruly,~~ 2988
~~or delinquent child and under the jurisdiction of the juvenile~~ 2989
~~court or a child whose parent or custodian is voluntarily seeking~~ 2990
~~services~~ an agency, including a juvenile court, or a family 2991
voluntarily seeking service coordination, to refer the child and 2992
family to the county council for service coordination in 2993
accordance with the county service coordination mechanism; 2994

(2) A procedure to ensuring that a family and all appropriate 2995
staff from involved agencies, including a representative from the 2996
appropriate school district, are notified of and invited to 2997
participate in all family service coordination plan meetings; 2998

(3) A procedure that permits a family to initiate a meeting 2999
to develop or review the family's service coordination plan and 3000
allows the family to invite a family advocate, mentor, or support 3001
person of the family's choice to participate in any such meeting; 3002

(4) A procedure for ensuring that a family service 3003
coordination plan meeting is conducted before a non-emergency 3004
out-of-home placement for all multi-need children, or within ten 3005
days of a placement for emergency placements of multi-need 3006

children. The family service coordination plan shall outline how 3007
the county council members will jointly pay for services, where 3008
applicable, and provide services in the least restrictive 3009
environment. 3010

(5) A procedure for monitoring the progress and tracking the 3011
outcomes of each service coordination plan requested in the county 3012
including monitoring and tracking children in out-of-home 3013
placements to assure continued progress, appropriateness of 3014
placement, and continuity of care after discharge from placement 3015
with appropriate arrangements for housing, treatment, and 3016
education. 3017

(6) A procedure for protecting the confidentiality of all 3018
personal family information disclosed during service coordination 3019
meetings or contained in the comprehensive family service 3020
coordination plan. 3021

(7) A procedure for assessing the service needs and strengths 3022
of the family of any child or family that has been referred to the 3023
council for service coordination, including a child who is an 3024
abused, neglected, dependent, unruly, or delinquent child and 3025
under the jurisdiction of the juvenile court or a child whose 3026
parent or custodian is voluntarily seeking services, and for 3027
ensuring that parents and custodians are afforded the opportunity 3028
to participate; 3029

~~(3)~~(8) A procedure for development of a comprehensive joint 3030
family service coordination plan described in division (D) of this 3031
section; 3032

~~(4)~~(9) A local dispute resolution process to serve as the 3033
process that must be used first to resolve disputes among the 3034
agencies represented on the county council concerning the 3035
provision of services to children, including children who are 3036
abused, neglected, dependent, unruly, alleged unruly, or 3037

delinquent children and under the jurisdiction of the juvenile 3038
court and children whose parents or custodians are voluntarily 3039
seeking services. The local dispute resolution process shall 3040
comply with section 121.38 of the Revised Code. ~~The~~ The local 3041
dispute resolution process shall be used to resolve disputes 3042
between a child's parents or custodians and the county council 3043
regarding service coordination. The county council shall inform 3044
the parents or custodians of their right to use the dispute 3045
resolution process. Parents or custodians shall use existing local 3046
agency grievance procedures to address disputes not involving 3047
service coordination. The dispute resolution process is in 3048
addition to and does not replace other rights or procedures that 3049
parents or custodians may have under other sections of the Revised 3050
Code. 3051

The cabinet council shall adopt rules in accordance with 3052
Chapter 119. of the Revised Code establishing an administrative 3053
review process to address problems that arise concerning the 3054
operation of a local dispute resolution process. 3055

Nothing in division (C)(4) of this section shall be 3056
interpreted as overriding or affecting decisions of a juvenile 3057
court regarding an out-of-home placement, long-term placement, or 3058
emergency out-of-home placement. 3059

(D) Each county shall develop a comprehensive ~~joint~~ family 3060
service coordination plan that does ~~both~~ all of the following: 3061

(1) Designates service responsibilities among the various 3062
state and local agencies that provide services to children and 3063
their families, including children who are abused, neglected, 3064
dependent, unruly, or delinquent children and under the 3065
jurisdiction of the juvenile court and children whose parents or 3066
custodians are voluntarily seeking services; 3067

(2) Designates an individual, approved by the family, to 3068

track the progress of the family service coordination plan, 3069
schedule reviews as necessary, and facilitate the family service 3070
coordination plan meeting process; 3071

(3) Ensures that assistance and services to be provided are 3072
responsive to the strengths and needs of the family, as well as 3073
the family's culture, race, and ethnic group, by allowing the 3074
family to offer information and suggestions and participate in 3075
decisions. Identified assistance and services shall be provided in 3076
the least restrictive environment possible. 3077

(4) Includes a ~~service coordination~~ process for dealing with 3078
a child who is alleged to be an unruly child. The ~~service~~ 3079
~~coordination~~ process shall include methods to divert the child 3080
from the juvenile court system; 3081

(5) Includes timelines for completion of goals specified in 3082
the plan with regular reviews scheduled to monitor progress toward 3083
those goals; 3084

(6) Includes a plan for dealing with short-term crisis 3085
situations and safety concerns. 3086

(E)(1) The ~~service coordination~~ process provided for under 3087
division (D)~~(2)~~(4) of this section may include, but is not limited 3088
to, the following: 3089

(a) ~~An assessment of the needs and strengths of the child and~~ 3090
~~the child's family and the services the child and the child's~~ 3091
~~family need;~~ 3092

~~(b)~~ Designation of the person or agency to conduct the 3093
assessment of the child and the child's family as described in 3094
division ~~(E)~~(1)~~(a)~~(C)(7) of this section and designation of the 3095
instrument or instruments to be used to conduct the assessment; 3096

~~(c)~~ Designation of the agency to provide case management 3097
services to the child and to the child's family; 3098

(d) <u>(b)</u> An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child;	3099 3100 3101
(e) <u>(c)</u> Involvement of local law enforcement agencies and officials.	3102 3103
(2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following:	3104 3105 3106
(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system;	3107 3108 3109 3110 3111 3112
(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;	3113 3114 3115 3116
(c) A method for dealing with short term crisis situations involving a confrontation between the child and the parents, guardian, or custodian;	3117 3118 3119
(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;	3120 3121 3122 3123
(e) <u>(d)</u> A program to provide a mentor to the child or the parents, guardian, or custodian;	3124 3125
(f) <u>(e)</u> A program to provide parenting education to the parents, guardian, or custodian;	3126 3127
(g) <u>(f)</u> An alternative school program for children who are	3128

truant from school, repeatedly disruptive in school, or suspended 3129
or expelled from school; 3130

~~(h)~~(g) Other appropriate measures, including, but not limited 3131
to, any alternative methods to divert a child from the juvenile 3132
court system that are identified by the Ohio family and children 3133
first cabinet council. 3134

(F) Each county may review and revise the service 3135
coordination process described in division (D)~~(2)~~ of this section 3136
based on the availability of funds under Title IV-A of the "Social 3137
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 3138
or to the extent resources are available from any other federal, 3139
state, or local funds. 3140

Sec. 121.373. There is hereby created in the state treasury 3141
the family and children first administration fund. The fund shall 3142
consist of money that the director of budget and management 3143
transfers from one or more funds of one or more agencies 3144
represented on the Ohio family and children first cabinet council. 3145
The director may transfer only money that state or federal law 3146
permits to be used for the cabinet council's administrative costs. 3147
Money in the fund shall be used to pay the cabinet council's 3148
administrative costs. 3149

Sec. 121.38. (A) An agency represented on a county family and 3150
children first council that disagrees with the council's decision 3151
concerning the services or funding for services a child is to 3152
receive from agencies represented on the council may initiate the 3153
local dispute resolution process established in the county service 3154
coordination mechanism applicable to the council. On completion of 3155
the process, the decision maker designated in the mechanism shall 3156
issue a written determination that directs one or more agencies 3157
represented on the council to provide services or funding for 3158

services to the child. The determination shall include a plan of 3159
care governing the manner in which the services or funding are to 3160
be provided. The decision maker shall base the plan of care on the 3161
~~comprehensive joint~~ family service coordination plan developed as 3162
part of the county's service coordination mechanism and on 3163
evidence presented during the local dispute resolution process. 3164
The decision maker may require an agency to provide services or 3165
funding only if the child's condition or needs qualify the child 3166
for services under the laws governing the agency. 3167

(B) An agency subject to a determination issued pursuant to a 3169
local dispute resolution process shall immediately comply with the 3170
determination, unless the agency objects to the determination by 3171
doing one of the following not later than seven days after the 3172
date the written determination is issued: 3173

(1) If the child has been alleged or adjudicated to be an 3174
abused, neglected, dependent, unruly, or delinquent child or a 3175
juvenile traffic offender, filing in the juvenile court of the 3176
county having jurisdiction over the child's case a motion 3177
requesting that the court hold a hearing to determine which 3178
agencies are to provide services or funding for services to the 3179
child. 3180

(2) If the child is not a child described in division (B)(1) 3181
of this section, filing in the juvenile court of the county served 3182
by the county council a complaint objecting to the determination. 3183

The court shall hold a hearing as soon as possible, but not 3184
later than ninety days after the motion or complaint is filed. At 3185
least five days before the date on which the court hearing is to 3186
be held, the court shall send each agency subject to the 3187
determination written notice by first class mail of the date, 3188
time, place, and purpose of the court hearing. In the case of a 3189
motion filed under division (B)(1) of this section, the court may 3190

conduct the hearing as part of the adjudicatory or dispositional 3191
hearing concerning the child, if appropriate, and shall provide 3192
notice as required for those hearings. 3193

Except in cases in which the hearing is conducted as part of 3194
the adjudicatory or dispositional hearing, a hearing held pursuant 3195
to this division shall be limited to a determination of which 3196
agencies are to provide services or funding for services to the 3197
child. At the conclusion of the hearing, the court shall issue an 3198
order directing one or more agencies represented on the county 3199
council to provide services or funding for services to the child. 3200
The order shall include a plan of care governing the manner in 3201
which the services or funding are to be provided. The court shall 3202
base the plan of care on the ~~comprehensive-joint~~ family service 3203
coordination plan developed as part of the county's service 3204
coordination plan and on evidence presented during the hearing. An 3205
agency required by the order to provide services or funding shall 3206
be a party to any juvenile court proceeding concerning the child. 3207
The court may require an agency to provide services or funding for 3208
a child only if the child's condition or needs qualify the child 3209
for services under the laws governing the agency. 3210

(C) While the local dispute resolution process or court 3211
proceedings pursuant to this section are pending, each agency 3212
shall provide services and funding as required by the decision 3213
made by the county council before dispute resolution was 3214
initiated. If an agency that provides services or funds during the 3215
local dispute resolution process or court proceedings is 3216
determined through the process or proceedings not to be 3217
responsible for providing them, it shall be reimbursed for the 3218
costs of providing the services or funding by the agencies 3219
determined to be responsible for providing them. 3220

Sec. 121.381. A parent or custodian who disagrees with a 3221

decision rendered by a county family and children first council 3222
regarding services for a child may initiate the dispute resolution 3223
process established in the county service coordination mechanism 3224
pursuant to division (C)(10) of section 121.37 of the Revised 3225
Code. 3226

Not later than sixty days after the parent or custodian 3227
initiates the dispute resolution process, the council shall make 3228
findings regarding the dispute and issue a written determination 3229
of its findings. 3230

Sec. 121.382. Each agency represented on a county family and 3231
children first council that is providing services or funding for 3232
services that are the subject of the dispute resolution process 3233
initiated by a parent or custodian under section 121.381 of the 3234
Revised Code shall continue to provide those services and the 3235
funding for those services during the dispute resolution process. 3236

Sec. 121.403. (A) The Ohio community service council may do 3237
any of the following: 3238

(1) Accept monetary gifts or donations; 3239

(2) Sponsor conferences, meetings, or events in furtherance 3240
of the council's purpose described in section 121.40 of the 3241
Revised Code and charge fees for participation or involvement in 3242
the conferences, meetings, or events; 3243

(3) Sell promotional items in furtherance of the council's 3244
purpose described in section 121.40 of the Revised Code. 3245

(B) All monetary gifts and donations, funds from the sale of 3246
promotional items, and any fees paid to the council for 3247
conferences, meetings, or events sponsored by the council shall be 3248
deposited into the Ohio community service council gifts and 3249
donations fund, which is hereby created in the state treasury. 3250

<u>Moneys in the fund may be used only as follows:</u>	3251
<u>(1) To pay operating expenses of the council, including</u>	3252
<u>payroll, personal services, maintenance, equipment, and subsidy</u>	3253
<u>payments;</u>	3254
<u>(2) To support council programs promoting volunteerism and</u>	3255
<u>community service in the state;</u>	3256
<u>(3) As matching funds for federal grants.</u>	3257
Sec. 122.011. (A) The department of development shall develop	3258
and promote plans and programs designed to assure that state	3259
resources are efficiently used, economic growth is properly	3260
balanced, community growth is developed in an orderly manner, and	3261
local governments are coordinated with each other and the state,	3262
and for such purposes may do all of the following:	3263
(1) Serve as a clearinghouse for information, data, and other	3264
materials that may be helpful or necessary to persons or local	3265
governments, as provided in section 122.07 of the Revised Code;	3266
(2) Prepare and activate plans for the retention,	3267
development, expansion, and use of the resources and commerce of	3268
the state, as provided in section 122.04 of the Revised Code;	3269
(3) Assist and cooperate with federal, state, and local	3270
governments and agencies of federal, state, and local governments	3271
in the coordination of programs to carry out the functions and	3272
duties of the department;	3273
(4) Encourage and foster research and development activities,	3274
conduct studies related to the solution of community problems, and	3275
develop recommendations for administrative or legislative actions,	3276
as provided in section 122.03 of the Revised Code;	3277
(5) Serve as the economic and community development planning	3278
agency, which shall prepare and recommend plans and programs for	3279

the orderly growth and development of this state and which shall
provide planning assistance, as provided in section 122.06 of the
Revised Code;

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

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

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

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

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

(11) Until October 15, ~~2005~~ 2007, establish fees and charges,
in consultation with the director of agriculture, for purchasing
loans from financial institutions and providing loan guarantees
under the family farm loan program created under sections 901.80

to 901.83 of the Revised Code; 3311

(12) Provide loan servicing for the loans purchased and loan 3312
guarantees provided under section 901.80 of the Revised Code as 3313
that section existed prior to October 15, ~~2005~~ 2007; 3314

(13) Until October 15, ~~2005~~ 2007, and upon approval by the 3315
controlling board under division (A)(3) of section 901.82 of the 3316
Revised Code of the release of money to be used for purchasing a 3317
loan or providing a loan guarantee, request the release of that 3318
money in accordance with division (B) of section 166.03 of the 3319
Revised Code for use for the purposes of the fund created by 3320
section 166.031 of the Revised Code. 3321

(B) The director of development may request the attorney 3322
general to, and the attorney general, in accordance with section 3323
109.02 of the Revised Code, shall bring a civil action in any 3324
court of competent jurisdiction. The director may be sued in the 3325
director's official capacity, in connection with this chapter, in 3326
accordance with Chapter 2743. of the Revised Code. 3327

Sec. 122.075. (A) As used in this section: 3328

(1) "Alternative fuel" means blended biodiesel or blended 3329
gasoline. 3330

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 3331
fuel that is derived from vegetable oils or animal fats, or any 3332
combination of those reagents, and that meets American society for 3333
testing and materials specification D6751-03a for biodiesel fuel 3334
(B100) blend stock distillate fuels. 3335

(3) "Diesel fuel" and "gasoline" have the same meanings as in 3336
section 5735.01 of the Revised Code. 3337

(4) "Ethanol" has the same meaning as in section 5733.46 of 3338
the Revised Code. 3339

(5) "Blended biodiesel" means diesel fuel containing at least 3340

twenty per cent biodiesel by volume. 3341

(6) "Blended gasoline" means gasoline containing at least 3342
eighty-five per cent ethanol by volume. 3343

(7) "Incremental cost" means either of the following: 3344

(a) The difference in cost between blended gasoline and 3345
gasoline containing ten per cent or less ethanol at the time that 3346
the blended gasoline is purchased; 3347

(b) The difference in cost between blended biodiesel and 3348
diesel fuel containing two per cent or less biodiesel at the time 3349
that the blended biodiesel is purchased. 3350

(B) For the purpose of improving the air quality in this 3351
state, the director of development shall establish an alternative 3352
fuel transportation grant program under which the director may 3353
make grants to businesses, nonprofit organizations, public school 3354
systems, or local governments for the purchase and installation of 3355
alternative fuel refueling facilities and for the purchase and use 3356
of alternative fuel. 3357

(C) The director shall adopt rules in accordance with Chapter 3358
119. of the Revised Code that are necessary for the administration 3359
of the alternative fuel transportation grant program. The rules 3360
shall establish at least all of the following: 3361

(1) An application form and procedures governing the 3362
application process for a grant under the program; 3363

(2) A procedure for prioritizing the award of grants under 3364
the program; 3365

(3) A requirement that the maximum grant for the purchase and 3366
installation of an alternative fuel refueling facility be no more 3367
than fifty per cent of the cost of the facility; 3368

(4) A requirement that the maximum grant for the purchase of 3369
alternative fuel be no more than fifty per cent of the incremental 3370

cost of the fuel; 3371

(5) Any other criteria, procedures, or guidelines that the director determines are necessary to administer the program. 3372
3373

(D) There is hereby created in the state treasury the alternative fuel transportation grant fund. The fund shall consist of money as may be specified by the general assembly from the energy efficiency revolving loan fund created by section 4928.61 of the Revised Code. Money in the fund shall be used to make grants under the alternative fuel transportation grant program and by the director in the administration of that program. 3374
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Sec. 122.083. (A) The director of development shall administer a shovel ready sites program to provide grants for projects to port authorities and development entities approved by the director. Grants may be used to pay the costs of any or all of the following: 3381
3382
3383
3384
3385

(1) Acquisition of property, including options; 3386

(2) Preparation of sites, including brownfield clean-up activities; 3387
3388

(3) Construction of road, water, telecommunication, and utility infrastructure; 3389
3390

(4) Payment of professional fees the amount of which shall not exceed twenty per cent of the grant amount for a project. 3391
3392

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures and requirements necessary for the administration of the program, including a requirement that a recipient of a grant enter into an agreement with the director governing the use of the grant. 3393
3394
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(C) There is hereby created in the state treasury the shovel ready sites fund consisting of money appropriated to it. Money in 3398
3399

the fund shall be used solely for the purposes of this section. 3400

Sec. 122.12. As used in this section and in section 122.121 3401
of the Revised Code: 3402

(A) "Direct costs" means total administrative operations 3403
spending plus total visitor spending. 3404

(B) "Eligible event" means an event that meets all of the 3405
following criteria: 3406

(1) It is held for a period not to exceed seven consecutive 3407
days. 3408

(2) It is either an amateur sporting event not regularly held 3409
in this state or a professional sporting event not affiliated 3410
exclusively with a franchise of the national football league, 3411
major league baseball, the national basketball association, the 3412
national hockey league, or major league soccer. 3413

(3) It is administered or managed by a sports commission or 3414
convention and visitors bureau domiciled in this state. 3415

(C) "Sports commission" means a nonprofit corporation 3416
organized under the laws of this state that is entitled to tax 3417
exempt status under section 501(c)(3), 501(c)(4), or 501(c)(6) of 3418
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 3419
501, as amended, and whose function is to attract, promote, or 3420
sponsor sports and athletic events within a municipal corporation, 3421
township, or county. 3422

(D) "Total administrative operations spending" means the 3423
total amount of administrative costs related to conducting an 3424
eligible event by a sports commission or convention and visitors 3425
bureau as estimated in a grant application submitted under section 3426
122.121 of the Revised Code. 3427

(E) "Total visitor spending" means the number of attendees of 3428

an eligible event from outside this state as estimated in a grant application submitted under section 122.121 of the Revised Code multiplied by the number of days the eligible event is to take place and then multiplied by one hundred fifty dollars.

Sec. 122.121. (A) The director of development shall approve grants in accordance with this section for the purpose of providing financial assistance to eligible events from money appropriated for that purpose. An applicant for a grant under this section shall submit an application to the director on a form and in a manner prescribed by the director. An application shall include estimates of total administrative operations spending and the total number of persons from outside this state that are expected to attend the eligible event. Not later than thirty days after receipt of an application, the director shall approve or disapprove the application in accordance with procedures established by the director. The director shall not approve an application until the applicant has submitted a formal letter of commitment from the organizer of the eligible event for which the application was submitted. If a grant application is approved, the grant money shall be paid directly to the sports commission or convention and visitors bureau that applied for the grant.

(B) Grants approved by the director shall comply with all of the following requirements:

(1) No one sports commission or convention and visitors bureau shall receive more than forty per cent of the total money awarded in grants in any given calendar year.

(2) No one eligible event shall receive more than thirty per cent of the total money awarded in grants in any given calendar year.

(3) A grant for an eligible event shall comprise not more

than two per cent of the direct costs associated with conducting 3459
the eligible event or, if the eligible event is or is scheduled to 3460
be televised nationally, not more than two and one-half per cent 3461
of the direct costs associated with conducting the eligible event. 3462

(4) Money from a grant awarded under this section shall not 3463
be spent on costs other than costs associated with marketing, 3464
eligible event operations, facility costs, and any bid fee or 3465
financial guarantee that is required to secure the eligible event. 3466

(C) The director may request a sports commission or 3467
convention and visitors bureau to submit the results of the most 3468
recent audit of the sports commission or bureau, if available. 3469

(D) Not later than ninety days after an eligible event for 3470
which a grant has been issued under this section has been 3471
conducted, the sports commission or convention and visitors bureau 3472
that received the grant shall submit a report to the director in a 3473
form and manner prescribed by the director detailing attendance 3474
statistics, spending receipts, and any other information that is 3475
determined to be necessary by the director. 3476

Sec. 122.17. (A) As used in this section: 3477

(1) "Full-time employee" means an individual who is employed 3478
for consideration for at least thirty-five hours a week, or who 3479
renders any other standard of service generally accepted by custom 3480
or specified by contract as full-time employment. 3481

(2) "New employee" means one of the following: 3482

(a) A full-time employee first employed by a taxpayer in the 3483
project that is the subject of the agreement after the taxpayer 3484
enters into a tax credit agreement with the tax credit authority 3485
under this section; 3486

(b) A full-time employee first employed by a taxpayer in the 3487
project that is the subject of the tax credit after the tax credit 3488

authority approves a project for a tax credit under this section 3489
in a public meeting, as long as the taxpayer enters into the tax 3490
credit agreement prepared by the department of development after 3491
such meeting within sixty days after receiving the agreement from 3492
the department. If the taxpayer fails to enter into the agreement 3493
within sixty days, "new employee" has the same meaning as under 3494
division (A)(2)(a) of this section. 3495

Under division (A)(2)(a) or (b) of this section, if the tax 3496
credit authority determines it appropriate, "new employee" also 3497
may include an employee re-hired or called back from lay-off to 3498
work in a new facility or on a new product or service established 3499
or produced by the taxpayer after entering into the agreement 3500
under this section or after the tax credit authority approves the 3501
tax credit in a public meeting. Except as otherwise provided in 3502
this paragraph, "new employee" does not include any employee of 3503
the taxpayer who was previously employed in this state by a 3504
related member of the taxpayer and whose employment was shifted to 3505
the taxpayer after the taxpayer entered into the tax credit 3506
agreement or after the tax credit authority approved the credit in 3507
a public meeting, or any employee of the taxpayer for which the 3508
taxpayer has been granted a certificate under division (B) of 3509
section 5709.66 of the Revised Code. However, if the taxpayer is 3510
engaged in the enrichment and commercialization of uranium or 3511
uranium products or is engaged in research and development 3512
activities related thereto and if the tax credit authority 3513
determines it appropriate, "new employee" may include an employee 3514
of the taxpayer who was previously employed in this state by a 3515
related member of the taxpayer and whose employment was shifted to 3516
the taxpayer after the taxpayer entered into the tax credit 3517
agreement or after the tax credit authority approved the credit in 3518
a public meeting. "New employee" does not include an employee of 3519
the taxpayer who is employed in an employment position that was 3520

relocated to a project from other operations of the taxpayer in 3521
this state or from operations of a related member of the taxpayer 3522
in this state. In addition, "new employee" does not include a 3523
child, grandchild, parent, or spouse, other than a spouse who is 3524
legally separated from the individual, of any individual who is an 3525
employee of the taxpayer and who has a direct or indirect 3526
ownership interest of at least five per cent in the profits, 3527
capital, or value of the taxpayer. Such ownership interest shall 3528
be determined in accordance with section 1563 of the Internal 3529
Revenue Code and regulations prescribed thereunder. 3530

(3) "New income tax revenue" means the total amount withheld 3531
under section 5747.06 of the Revised Code by the taxpayer during 3532
the taxable year, or during the calendar year that includes the 3533
tax period, from the compensation of new employees for the tax 3534
levied under Chapter 5747. of the Revised Code. 3535

(4) "Related member" has the same meaning as under division 3536
(A)(6) of section 5733.042 of the Revised Code without regard to 3537
division (B) of that section. 3538

(B) The tax credit authority may make grants under this 3539
section to foster job creation in this state. Such a grant shall 3540
take the form of a refundable credit allowed against the tax 3541
imposed by section 5733.06 or 5747.02 or levied under Chapter 3542
5751. of the Revised Code. The credit shall be claimed for the 3543
taxable years or tax periods specified in the taxpayer's agreement 3544
with the tax credit authority under division (D) of this section. 3545
The credit shall be claimed ~~after the allowance of all other~~ 3546
~~credits provided by Chapter 5733. or 5747.~~ in the order required 3547
under section 5733.98, 5747.98, or 5751.98 of the Revised Code. 3548
The amount of the credit available for a taxable year or for a 3549
calendar year that includes a tax period equals the new income tax 3550
revenue for ~~the taxable that~~ year multiplied by the percentage 3551
specified in the agreement with the tax credit authority. Any 3552

credit granted under this section against the tax imposed by 3553
section 5733.06 or 5747.02 of the Revised Code, to the extent not 3554
fully utilized against such tax for taxable years ending prior to 3555
2008, shall automatically be converted without any action taken by 3556
the tax credit authority to a credit against the tax levied under 3557
Chapter 5751. of the Revised Code for tax periods beginning on or 3558
after July 1, 2008, provided that the person to whom the credit 3559
was granted is subject to such tax. The converted credit shall 3560
apply to those calendar years in which the remaining taxable years 3561
specified in the agreement end. 3562

(C) A taxpayer or potential taxpayer who proposes a project 3563
to create new jobs in this state may apply to the tax credit 3564
authority to enter into an agreement for a tax credit under this 3565
section. The director of development shall prescribe the form of 3566
the application. After receipt of an application, the authority 3567
may enter into an agreement with the taxpayer for a credit under 3568
this section if it determines all of the following: 3569

(1) The taxpayer's project will create new jobs in this 3570
state; 3571

(2) The taxpayer's project is economically sound and will 3572
benefit the people of this state by increasing opportunities for 3573
employment and strengthening the economy of this state; 3574

(3) Receiving the tax credit is a major factor in the 3575
taxpayer's decision to go forward with the project. 3576

(D) An agreement under this section shall include all of the 3577
following: 3578

(1) A detailed description of the project that is the subject 3579
of the agreement; 3580

(2) The term of the tax credit, which shall not exceed 3581
fifteen years, and the first taxable year, or first calendar year 3582
that includes a tax period, for which the credit may be claimed; 3583

(3) A requirement that the taxpayer shall maintain operations 3584
at the project location for at least twice the number of years as 3585
the term of the tax credit; 3586

(4) The percentage, as determined by the tax credit 3587
authority, of new income tax revenue that will be allowed as the 3588
amount of the credit for each taxable year or for each calendar 3589
year that includes a tax period; 3590

(5) A specific method for determining how many new employees 3591
are employed during a taxable year or during a calendar year that 3592
includes a tax period; 3593

(6) A requirement that the taxpayer annually shall report to 3594
the director of development the number of new employees, the new 3595
income tax revenue withheld in connection with the new employees, 3596
and any other information the director needs to perform the 3597
director's duties under this section; 3598

(7) A requirement that the director of development annually 3599
shall verify the amounts reported under division (D)(6) of this 3600
section, and after doing so shall issue a certificate to the 3601
taxpayer stating that the amounts have been verified; 3602

(8)(a) A provision requiring that the taxpayer, except as 3603
otherwise provided in division (D)(8)(b) of this section, shall 3604
not relocate employment positions from elsewhere in this state to 3605
the project site that is the subject of the agreement for the 3606
lesser of five years from the date the agreement is entered into 3607
or the number of years the taxpayer is entitled to claim the tax 3608
credit. 3609

(b) The taxpayer may relocate employment positions from 3610
elsewhere in this state to the project site that is the subject of 3611
the agreement if the director of development determines both of 3612
the following: 3613

(i) That the site from which the employment positions would 3614
be relocated is inadequate to meet market and industry conditions, 3615
expansion plans, consolidation plans, or other business 3616
considerations affecting the taxpayer; 3617

(ii) That the legislative authority of the county, township, 3618
or municipal corporation from which the employment positions would 3619
be relocated has been notified of the relocation. 3620

For purposes of this section, the movement of an employment 3621
position from one political subdivision to another political 3622
subdivision shall be considered a relocation of an employment 3623
position, but the transfer of an individual employee from one 3624
political subdivision to another political subdivision shall not 3625
be considered a relocation of an employment position as long as 3626
the individual's employment position in the first political 3627
subdivision is refilled. 3628

(E) If a taxpayer fails to meet or comply with any condition 3629
or requirement set forth in a tax credit agreement, the tax credit 3630
authority may amend the agreement to reduce the percentage or term 3631
of the tax credit. The reduction of the percentage or term shall 3632
take effect in the taxable year immediately following the taxable 3633
year in which the authority amends the agreement or in the first 3634
tax period beginning in the calendar year immediately following 3635
the calendar year in which the authority amends the agreement. If 3636
the taxpayer relocates employment positions in violation of the 3637
provision required under division (D)(8)(a) of this section, the 3638
taxpayer shall not claim the tax credit under section 5733.0610 of 3639
the Revised Code for any tax years following the calendar year in 3640
which the relocation occurs, or shall not claim the tax credit 3641
under section 5725.32, 5729.032, or 5747.058 of the Revised Code 3642
for the taxable year in which the relocation occurs and any 3643
subsequent taxable years, and shall not claim the tax credit under 3644
division (A) of section 5751.50 of the Revised Code for any tax 3645

period in the calendar year in which the relocation occurs and any 3646
subsequent tax periods. 3647

(F) Projects that consist solely of point-of-final-purchase 3648
retail facilities are not eligible for a tax credit under this 3649
section. If a project consists of both point-of-final-purchase 3650
retail facilities and nonretail facilities, only the portion of 3651
the project consisting of the nonretail facilities is eligible for 3652
a tax credit and only the new income tax revenue from new 3653
employees of the nonretail facilities shall be considered when 3654
computing the amount of the tax credit. If a warehouse facility is 3655
part of a point-of-final-purchase retail facility and supplies 3656
only that facility, the warehouse facility is not eligible for a 3657
tax credit. Catalog distribution centers are not considered 3658
point-of-final-purchase retail facilities for the purposes of this 3659
division, and are eligible for tax credits under this section. 3660

(G) Financial statements and other information submitted to 3661
the department of development or the tax credit authority by an 3662
applicant or recipient of a tax credit under this section, and any 3663
information taken for any purpose from such statements or 3664
information, are not public records subject to section 149.43 of 3665
the Revised Code. However, the chairperson of the authority may 3666
make use of the statements and other information for purposes of 3667
issuing public reports or in connection with court proceedings 3668
concerning tax credit agreements under this section. Upon the 3669
request of the tax commissioner or, if the applicant or recipient 3670
is an insurance company, upon the request of the superintendent of 3671
insurance, the chairperson of the authority shall provide to the 3672
commissioner or superintendent any statement or information 3673
submitted by an applicant or recipient of a tax credit in 3674
connection with the credit. The commissioner or superintendent 3675
shall preserve the confidentiality of the statement or 3676
information. 3677

(H) A taxpayer claiming a credit under this section shall 3678
submit to the tax commissioner or, if the taxpayer is an insurance 3679
company, to the superintendent of insurance, a copy of the 3680
director of development's certificate of verification under 3681
division (D)(7) of this section for the taxable year or for the 3682
calendar year that includes the tax period. However, failure to 3683
submit a copy of the certificate does not invalidate a claim for a 3684
credit. 3685

(I) The director of development, after consultation with the 3686
tax commissioner and the superintendent of insurance and in 3687
accordance with Chapter 119. of the Revised Code, shall adopt 3688
rules necessary to implement this section. The rules may provide 3689
for recipients of tax credits under this section to be charged 3690
fees to cover administrative costs of the tax credit program. At 3691
the time the director gives public notice under division (A) of 3692
section 119.03 of the Revised Code of the adoption of the rules, 3693
the director shall submit copies of the proposed rules to the 3694
chairpersons of the standing committees on economic development in 3695
the senate and the house of representatives. 3696

(J) For the purposes of this section, a taxpayer may include 3697
a partnership, a corporation that has made an election under 3698
subchapter S of chapter one of subtitle A of the Internal Revenue 3699
Code, or any other business entity through which income flows as a 3700
distributive share to its owners. A credit received under this 3701
section by a partnership, S-corporation, or other such business 3702
entity shall be apportioned among the persons to whom the income 3703
or profit of the partnership, S-corporation, or other entity is 3704
distributed, in the same proportions as those in which the income 3705
or profit is distributed. 3706

(K) If the director of development determines that a taxpayer 3707
who has received a credit under this section is not complying with 3708
the requirement under division (D)(3) of this section, the 3709

director shall notify the tax credit authority of the 3710
noncompliance. After receiving such a notice, and after giving the 3711
taxpayer an opportunity to explain the noncompliance, the tax 3712
credit authority may require the taxpayer to refund to this state 3713
a portion of the credit in accordance with the following: 3714

(1) If the taxpayer maintained operations at the project 3715
location for at least one and one-half times the number of years 3716
of the term of the tax credit, an amount not exceeding twenty-five 3717
per cent of the sum of any previously allowed credits under this 3718
section; 3719

(2) If the taxpayer maintained operations at the project 3720
location for at least the number of years of the term of the tax 3721
credit, an amount not exceeding fifty per cent of the sum of any 3722
previously allowed credits under this section; 3723

(3) If the taxpayer maintained operations at the project 3724
location for less than the number of years of the term of the tax 3725
credit, an amount not exceeding one hundred per cent of the sum of 3726
any previously allowed credits under this section. 3727

In determining the portion of the tax credit to be refunded 3728
to this state, the tax credit authority shall consider the effect 3729
of market conditions on the taxpayer's project and whether the 3730
taxpayer continues to maintain other operations in this state. 3731
After making the determination, the authority shall certify the 3732
amount to be refunded to the tax commissioner or superintendent of 3733
insurance, as appropriate. The If the amount is certified to the 3734
commissioner, the commissioner shall make an assessment for that 3735
amount against the taxpayer under Chapter 5733. ~~or, 5747., or~~ 3736
5751. of the Revised Code. If the amount is certified to the 3737
superintendent, the superintendent shall make an assessment for 3738
that amount against the taxpayer under Chapter 5725. or 5729. of 3739
the Revised Code. The time limitations on assessments under 3740

~~Chapter 5733. or 5747. of the Revised Code those chapters~~ do not 3741
apply to an assessment under this division, but the commissioner 3742
~~or superintendent, as appropriate,~~ shall make the assessment 3743
within one year after the date the authority certifies to the 3744
commissioner ~~or superintendent~~ the amount to be refunded. 3745

(L) On or before the thirty-first day of March each year, the 3746
director of development shall submit a report to the governor, the 3747
president of the senate, and the speaker of the house of 3748
representatives on the tax credit program under this section. The 3749
report shall include information on the number of agreements that 3750
were entered into under this section during the preceding calendar 3751
year, a description of the project that is the subject of each 3752
such agreement, and an update on the status of projects under 3753
agreements entered into before the preceding calendar year. 3754

~~During the fifth year of the tax credit program, the director~~ 3755
~~of development in conjunction with the director of budget and~~ 3756
~~management shall conduct an evaluation of it. The evaluation shall~~ 3757
~~include assessments of the effectiveness of the program in~~ 3758
~~creating new jobs in this state and of the revenue impact of the~~ 3759
~~program, and may include a review of the practices and experiences~~ 3760
~~of other states with similar programs. The director of development~~ 3761
~~shall submit a report on the evaluation to the governor, the~~ 3762
~~president of the senate, and the speaker of the house of~~ 3763
~~representatives on or before January 1, 1998.~~ 3764

(M) There is hereby created the tax credit authority, which 3765
consists of the director of development and four other members 3766
appointed as follows: the governor, the president of the senate, 3767
and the speaker of the house of representatives each shall appoint 3768
one member who shall be a specialist in economic development; the 3769
governor also shall appoint a member who is a specialist in 3770
taxation. Of the initial appointees, the members appointed by the 3771
governor shall serve a term of two years; the members appointed by 3772

the president of the senate and the speaker of the house of 3773
representatives shall serve a term of four years. Thereafter, 3774
terms of office shall be for four years. Initial appointments to 3775
the authority shall be made within thirty days after January 13, 3776
1993. Each member shall serve on the authority until the end of 3777
the term for which the member was appointed. Vacancies shall be 3778
filled in the same manner provided for original appointments. Any 3779
member appointed to fill a vacancy occurring prior to the 3780
expiration of the term for which the member's predecessor was 3781
appointed shall hold office for the remainder of that term. 3782
Members may be reappointed to the authority. Members of the 3783
authority shall receive their necessary and actual expenses while 3784
engaged in the business of the authority. The director of 3785
development shall serve as chairperson of the authority, and the 3786
members annually shall elect a vice-chairperson from among 3787
themselves. Three members of the authority constitute a quorum to 3788
transact and vote on the business of the authority. The majority 3789
vote of the membership of the authority is necessary to approve 3790
any such business, including the election of the vice-chairperson. 3791

The director of development may appoint a professional 3792
employee of the department of development to serve as the 3793
director's substitute at a meeting of the authority. The director 3794
shall make the appointment in writing. In the absence of the 3795
director from a meeting of the authority, the appointed substitute 3796
shall serve as chairperson. In the absence of both the director 3797
and the director's substitute from a meeting, the vice-chairperson 3798
shall serve as chairperson. 3799

(N) For purposes of the credits granted by this section 3800
against the taxes imposed under sections 5725.18 and 5729.03 of 3801
the Revised Code, "taxable year" means the period covered by the 3802
taxpayer's annual report. 3803

Sec. 122.171. (A) As used in this section:	3804
(1) "Capital investment project" means a plan of investment	3805
at a project site for the acquisition, construction, renovation,	3806
or repair of buildings, machinery, or equipment, or for	3807
capitalized costs of basic research and new product development	3808
determined in accordance with generally accepted accounting	3809
principles, but does not include any of the following:	3810
(a) Payments made for the acquisition of personal property	3811
through operating leases;	3812
(b) Project costs paid before January 1, 2002, or after	3813
December 31, 2006;	3814
(c) Payments made to a related member as defined in section	3815
5733.042 of the Revised Code <u>or to an elected consolidated</u>	3816
<u>taxpayer or a combined taxpayer as defined in section 5751.01 of</u>	3817
<u>the Revised Code.</u>	3818
(2) "Eligible business" means a business with Ohio operations	3819
satisfying all of the following:	3820
(a) Employed an average of at least one thousand employees in	3821
full-time employment positions at a project site during each of	3822
the twelve months preceding the application for a tax credit under	3823
this section; and	3824
(b) On or after January 1, 2002, has made payments for the	3825
capital investment project of either of the following:	3826
(i) At least two hundred million dollars in the aggregate at	3827
the project site during a period of three consecutive calendar	3828
years including the calendar year that includes a day of the	3829
taxpayer's taxable year <u>or tax period</u> with respect to which the	3830
credit is granted;	3831
(ii) If the average wage of all full-time employment	3832

positions at the project site is greater than four hundred per 3833
cent of the federal minimum wage, at least one hundred million 3834
dollars in the aggregate at the project site during a period of 3835
three consecutive calendar years including the calendar year that 3836
includes a day of the taxpayer's taxable year or tax period with 3837
respect to which the credit is granted. 3838

(c) Is engaged at the project site primarily as a 3839
manufacturer or is providing significant corporate administrative 3840
functions; 3841

(d) Has had a capital investment project reviewed and 3842
approved by the tax credit authority as provided in divisions (C), 3843
(D), and (E) of this section. 3844

(3) "Full-time employment position" means a position of 3845
employment for consideration for at least thirty-five hours a week 3846
that has been filled for at least one hundred eighty days 3847
immediately preceding the filing of an application under this 3848
section and for at least one hundred eighty days during each 3849
taxable year or each calendar year that includes a tax period with 3850
respect to which the credit is granted. 3851

(4) "Manufacturer" has the same meaning as in section 3852
5739.011 of the Revised Code. 3853

(5) "Project site" means an integrated complex of facilities 3854
in this state, as specified by the tax credit authority under this 3855
section, within a fifteen-mile radius where a taxpayer is 3856
primarily operating as an eligible business. 3857

(6) "Applicable corporation" means a corporation satisfying 3858
all of the following: 3859

(a)(i) For the entire taxable year immediately preceding the 3860
tax year, the corporation develops software applications primarily 3861
to provide telecommunication billing and information services 3862

through outsourcing or licensing to domestic or international 3863
customers. 3864

(ii) Sales and licensing of software generated at least six 3865
hundred million dollars in revenue during the taxable year 3866
immediately preceding the tax year the corporation is first 3867
entitled to claim the credit provided under division (B) of this 3868
section. 3869

(b) For the entire taxable year immediately preceding the tax 3870
year, the corporation or one or more of its related members 3871
provides customer or employee care and technical support for 3872
clients through one or more contact centers within this state, and 3873
the corporation and its related members together have a daily 3874
average, based on a ~~three hundred sixty five day~~ 3875
three-hundred-sixty-five-day year, of at least five hundred 3876
thousand successful customer contacts through one or more of their 3877
contact centers, wherever located. 3878

(c) The corporation is eligible for the credit under division 3879
(B) of this section for the tax year. 3880

(7) "Related member" has the same meaning as in section 3881
5733.042 of the Revised Code as that section existed on the 3882
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 3883
general assembly, September 29, 1997. 3884

(8) "Successful customer contact" means a contact with an end 3885
user via telephone, including interactive voice recognition or 3886
similar means, where the contact culminates in a conversation or 3887
connection other than a busy signal or equipment busy. 3888

(9) "Telecommunications" means all forms of 3889
telecommunications service as defined in section 5739.01 of the 3890
Revised Code, and includes services in wireless, wireline, cable, 3891
broadband, internet protocol, and satellite. 3892

(10)(a) "Applicable difference" means the difference between 3893
the tax for the tax year under Chapter 5733. of the Revised Code 3894
applying the law in effect for that tax year, and the tax for that 3895
tax year if section 5733.042 of the Revised Code applied as that 3896
section existed on the effective date of its amendment by Am. Sub. 3897
H.B. 215 of the 122nd general assembly, September 29, 1997, 3898
subject to division (A)(10)(b) of this section. 3899

(b) If the tax rate set forth in division (B) of section 3900
5733.06 of the Revised Code for the tax year is less than eight 3901
and one-half per cent, the tax calculated under division 3902
(A)(10)(a) of this section shall be computed by substituting a tax 3903
rate of eight and one-half per cent for the rate set forth in 3904
division (B) of section 5733.06 of the Revised Code for the tax 3905
year. 3906

(c) If the resulting difference is negative, the applicable 3907
tax difference for the tax year shall be zero. 3908

(B) The tax credit authority created under section 122.17 of 3909
the Revised Code may grant tax credits under this section for the 3910
purpose of fostering job retention in this state. Upon application 3911
by an eligible business and upon consideration of the 3912
recommendation of the director of budget and management, tax 3913
commissioner, and director of development under division (C) of 3914
this section, the tax credit authority may grant to an eligible 3915
business a nonrefundable credit against the tax imposed by section 3916
5733.06 or 5747.02 or levied under Chapter 5751. of the Revised 3917
Code for a period up to fifteen taxable years and against the tax 3918
levied by Chapter 5751. of the Revised Code for a period of up to 3919
fifteen calendar years. The credit shall be in an amount not 3920
exceeding seventy-five per cent of the Ohio income tax withheld 3921
from the employees of the eligible business occupying full-time 3922
employment positions at the project site during the calendar year 3923
that includes the last day of such business' taxable year or tax 3924

period with respect to which the credit is granted. The amount of 3925
the credit shall not be based on the Ohio income tax withheld from 3926
full-time employees for a calendar year prior to the calendar year 3927
in which the minimum investment requirement referred to in 3928
division (A)(2)(b) of this section is completed. The credit shall 3929
be claimed only for the taxable years or tax periods specified in 3930
the eligible business' agreement with the tax credit authority 3931
under division (E) of this section, but in no event shall the 3932
credit be claimed for a taxable year or tax period terminating 3933
before the date specified in the agreement. Any credit granted 3934
under this section against the tax imposed by section 5733.06 or 3935
5747.02 of the Revised Code, to the extent not fully utilized 3936
against such tax for taxable years ending prior to 2008, shall 3937
automatically be converted without any action taken by the tax 3938
credit authority to a credit against the tax levied under Chapter 3939
5751. of the Revised Code for tax periods beginning on or after 3940
July 1, 2008, provided that the person to whom the credit was 3941
granted is subject to such tax. The converted credit shall apply 3942
to those calendar years in which the remaining taxable years 3943
specified in the agreement end. 3944

The credit computed under this division is in addition to any 3945
credit allowed under division (M) of this section which the tax 3946
credit authority may also include in the agreement. 3947

Any unused portion of a tax credit may be carried forward for 3948
not more than three additional years after the year for which the 3949
credit is granted. 3950

(C) A taxpayer that proposes a capital investment project to 3951
retain jobs in this state may apply to the tax credit authority to 3952
enter into an agreement for a tax credit under this section. The 3953
director of development shall prescribe the form of the 3954
application. After receipt of an application, the authority shall 3955
forward copies of the application to the director of budget and 3956

management, the tax commissioner, and the director of development, 3957
each of whom shall review the application to determine the 3958
economic impact the proposed project would have on the state and 3959
the affected political subdivisions and shall submit a summary of 3960
their determinations and recommendations to the authority. ~~The~~ 3961
~~authority shall make no agreements under this section after June~~ 3962
~~30, 2007.~~ 3963

(D) Upon review of the determinations and recommendations 3964
described in division (C) of this section, the tax credit 3965
authority may enter into an agreement with the taxpayer for a 3966
credit under this section if the authority determines all of the 3967
following: 3968

(1) The taxpayer's capital investment project will result in 3969
the retention of full-time employment positions in this state. 3970

(2) The taxpayer is economically sound and has the ability to 3971
complete the proposed capital investment project. 3972

(3) The taxpayer intends to and has the ability to maintain 3973
operations at the project site for at least twice the term of the 3974
credit. 3975

(4) Receiving the credit is a major factor in the taxpayer's 3976
decision to begin, continue with, or complete the project. 3977

(5) The political subdivisions in which the project is 3978
located have agreed to provide substantial financial support to 3979
the project. 3980

(E) An agreement under this section shall include all of the 3981
following: 3982

(1) A detailed description of the project that is the subject 3983
of the agreement, including the amount of the investment, the 3984
period over which the investment has been or is being made, and 3985
the number of full-time employment positions at the project site. 3986

(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section. 3987
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(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed. 3990
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(4) A requirement that the taxpayer maintain operations at the project site for at least twice the number of years as the term of the credit. 3992
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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. 3995
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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. 4002
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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 4009
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in which the total number of filled full-time employment positions 4018
for each day of the calendar year divided by three hundred 4019
sixty-five is less than ninety per cent of the full-time 4020
employment positions specified in division (E)(5) of this section. 4021
In determining the number of full-time employment positions, no 4022
position shall be counted that is filled by an employee who is 4023
included in the calculation of a tax credit under section 122.17 4024
of the Revised Code. 4025

(8)(a) A provision requiring that the taxpayer, except as 4026
otherwise provided in division (E)(8)(b) of this section, shall 4027
not relocate employment positions from elsewhere in this state to 4028
the project site that is the subject of the agreement for the 4029
lesser of five years from the date the agreement is entered into 4030
or the number of years the taxpayer is entitled to claim the 4031
credit. 4032

(b) The taxpayer may relocate employment positions from 4033
elsewhere in this state to the project site that is the subject of 4034
the agreement if the director of development determines both of 4035
the following: 4036

(i) That the site from which the employment positions would 4037
be relocated is inadequate to meet market and industry conditions, 4038
expansion plans, consolidation plans, or other business 4039
considerations affecting the taxpayer; 4040

(ii) That the legislative authority of the county, township, 4041
or municipal corporation from which the employment positions would 4042
be relocated has been notified of the relocation. 4043

For purposes of this section, the movement of an employment 4044
position from one political subdivision to another political 4045
subdivision shall be considered a relocation of an employment 4046
position unless the movement is confined to the project site. The 4047
transfer of an individual employee from one political subdivision 4048

to another political subdivision shall not be considered a 4049
relocation of an employment position as long as the individual's 4050
employment position in the first political subdivision is 4051
refilled. 4052

(9) A waiver by the taxpayer of any limitations periods 4053
relating to assessments or adjustments resulting from the 4054
taxpayer's failure to comply with the agreement. 4055

(F) If a taxpayer fails to meet or comply with any condition 4056
or requirement set forth in a tax credit agreement, the tax credit 4057
authority may amend the agreement to reduce the percentage or term 4058
of the credit. The reduction of the percentage or term shall take 4059
effect in the taxable year immediately following the taxable year 4060
in which the authority amends the agreement or in the first tax 4061
period beginning in the calendar year immediately following the 4062
calendar year in which the authority amends the agreement. If the 4063
taxpayer relocates employment positions in violation of the 4064
provision required under division (D)(8)(a) of this section, the 4065
taxpayer shall not claim the tax credit under section 5733.0610 of 4066
the Revised Code for any tax years following the calendar year in 4067
which the relocation occurs, ~~or~~ shall not claim the tax credit 4068
under section 5747.058 of the Revised Code for the taxable year in 4069
which the relocation occurs and any subsequent taxable years, and 4070
shall not claim the tax credit under division (A) of section 4071
5751.50 of the Revised Code for the tax period in which the 4072
relocation occurs and any subsequent tax periods. 4073

(G) Financial statements and other information submitted to 4074
the department of development or the tax credit authority by an 4075
applicant for or recipient of a tax credit under this section, and 4076
any information taken for any purpose from such statements or 4077
information, are not public records subject to section 149.43 of 4078
the Revised Code. However, the chairperson of the authority may 4079
make use of the statements and other information for purposes of 4080

issuing public reports or in connection with court proceedings 4081
concerning tax credit agreements under this section. Upon the 4082
request of the tax commissioner, the chairperson of the authority 4083
shall provide to the commissioner any statement or other 4084
information submitted by an applicant for or recipient of a tax 4085
credit in connection with the credit. The commissioner shall 4086
preserve the confidentiality of the statement or other 4087
information. 4088

(H) A taxpayer claiming a tax credit under this section shall 4089
submit to the tax commissioner a copy of the director of 4090
development's certificate of verification under division (E)(7) of 4091
this section for the taxable year or for the calendar year that 4092
includes the tax period. However, failure to submit a copy of the 4093
certificate does not invalidate a claim for a credit. 4094

(I) For the purposes of this section, a taxpayer may include 4095
a partnership, a corporation that has made an election under 4096
subchapter S of chapter one of subtitle A of the Internal Revenue 4097
Code, or any other business entity through which income flows as a 4098
distributive share to its owners. A tax credit received under this 4099
section by a partnership, S-corporation, or other such business 4100
entity shall be apportioned among the persons to whom the income 4101
or profit of the partnership, S-corporation, or other entity is 4102
distributed, in the same proportions as those in which the income 4103
or profit is distributed. 4104

(J) If the director of development determines that a taxpayer 4105
that received a tax credit under this section is not complying 4106
with the requirement under division (E)(4) of this section, the 4107
director shall notify the tax credit authority of the 4108
noncompliance. After receiving such a notice, and after giving the 4109
taxpayer an opportunity to explain the noncompliance, the 4110
authority may terminate the agreement and require the taxpayer to 4111
refund to the state all or a portion of the credit claimed in 4112

previous years, as follows: 4113

(1) If the taxpayer maintained operations at the project site 4114
for less than the term of the credit, the amount required to be 4115
refunded shall not exceed the amount of any tax credits previously 4116
allowed and received under this section. 4117

(2) If the taxpayer maintained operations at the project site 4118
longer than the term of the credit but less than one and one-half 4119
times the term of the credit, the amount required to be refunded 4120
shall not exceed fifty per cent of the sum of any tax credits 4121
previously allowed and received under this section. 4122

(3) If the taxpayer maintained operations at the project site 4123
for at least one and one-half times the term of the credit but 4124
less than twice the term of the credit, the amount required to be 4125
refunded shall not exceed twenty-five per cent of the sum of any 4126
tax credits previously allowed and received under this section. 4127

In determining the portion of the credit to be refunded to 4128
this state, the authority shall consider the effect of market 4129
conditions on the taxpayer's project and whether the taxpayer 4130
continues to maintain other operations in this state. After making 4131
the determination, the authority shall certify the amount to be 4132
refunded to the tax commissioner. The commissioner shall make an 4133
assessment for that amount against the taxpayer under Chapter 4134
5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time 4135
limitations on assessments under ~~Chapter 5733. or 5747. of the~~ 4136
~~Revised Code~~ those chapters do not apply to an assessment under 4137
this division, but the commissioner shall make the assessment 4138
within one year after the date the authority certifies to the 4139
commissioner the amount to be refunded. 4140

If the director of development determines that a taxpayer 4141
that received a tax credit under this section has reduced the 4142
number of employees agreed to under division (E)(5) of this 4143

section by more than ten per cent, the director shall notify the
tax credit authority of the noncompliance. After receiving such
notice, and after providing the taxpayer an opportunity to explain
the noncompliance, the authority may amend the agreement to reduce
the percentage or term of the tax credit. The reduction in the
percentage or term shall take effect in the taxable year, or in
the calendar year that includes the tax period, in which the
authority amends the agreement.

(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 4176
(B) to (E) and division (J) of this section. 4177

(2) A person qualifying as an applicable corporation under 4178
this section for a tax year does not necessarily qualify as an 4179
applicable corporation for any other tax year. No person is 4180
entitled to the credit allowed under division (M) of this section 4181
for the tax year immediately following the taxable year during 4182
which the person fails to meet the requirements in divisions 4183
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 4184
to the credit allowed under division (M) of this section for any 4185
tax year for which the person is not eligible for the credit 4186
provided under division (B) of this section. 4187

Sec. 122.40. (A) There is hereby created the development 4188
financing advisory council to assist in carrying out the programs 4189
created pursuant to sections 122.39 to 122.62 and Chapter 166. of 4190
the Revised Code. 4191

(B) The council shall consist of seven members appointed by 4192
the governor, with the advice and consent of the senate, who are 4193
selected for their knowledge of and experience in economic 4194
development financing, one member of the senate appointed by the 4195
president of the senate, one member of the house of 4196
representatives appointed by the speaker of the house of 4197
representatives, and the director of development or the director's 4198
designee. With respect to the council: 4199

(1) No more than four members of the council appointed by the 4200
governor shall be members of the same political party. 4201

(2) Each member shall hold office from the date of the 4202
member's appointment until the end of the term for which the 4203
member was appointed. 4204

(3) The terms of office for the seven members appointed by 4205

the governor shall be for five years commencing on the first day
of January and ending on the thirty-first day of December. The
seven members appointed by the governor who are serving terms of
office of seven years on ~~the effective date of this amendment~~
December 30, 2004, shall continue to serve those terms, but their
successors in office, including the filling of a vacancy occurring
prior to the expiration of those terms, shall be appointed for
terms of five years in accordance with this division.

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

(5) As a term of a member of the council appointed by the
governor expires, the governor shall appoint a successor with the
advice and consent of the senate.

(6) Except as otherwise provided in division (B)(3) of this
section, any member appointed to fill a vacancy occurring prior to
the expiration of the term for which the member's predecessor was
appointed shall hold office for the remainder of the predecessor's
term.

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

(8) Before entering upon duties as a member of the council,
each member shall take an oath provided by Section 7 of Article
XV, Ohio Constitution.

(9) The governor may, at any time, remove any nonlegislative
member pursuant to section 3.04 of the Revised Code.

(10) Members of the council, notwithstanding section 101.26
of the Revised Code with respect to members who are members of the
general assembly, shall receive their necessary and actual
expenses while engaged in the business of the council and shall be

paid at the per diem rate of step 1, pay range 31, of section 4236
124.15 of the Revised Code. 4237

(11) ~~Four~~ Six members of the council constitute a quorum and 4238
the affirmative vote of six members is necessary for any action 4239
taken by the council. 4240

(12) In the event of the absence of a member appointed by the 4241
president of the senate or by the speaker of the house of 4242
representatives, the following persons may serve in the member's 4243
absence: the president of the senate or the speaker of the house, 4244
as the case may be, or a member of the senate or of the house of 4245
representatives, of the same political party as the development 4246
financing advisory council member, designated by the president of 4247
the senate or the speaker of the house. 4248

Sec. 122.603. (A)(1) Upon approval by the director of 4249
development and after entering into a participation agreement with 4250
the department of development, a participating financial 4251
institution making a capital access loan shall establish a program 4252
reserve account. The account shall be an interest-bearing account 4253
and shall contain only moneys deposited into it under the program 4254
and the interest payable on the moneys in the account. 4255

(2) All interest payable on the moneys in the program reserve 4256
account shall be added to the moneys and held as an additional 4257
loss reserve. The director may require that a portion or all of 4258
the accrued interest so held in the account be released to the 4259
department. If the director causes a release of accrued interest, 4260
the director shall deposit the released amount into the capital 4261
access loan program fund created in section 122.601 of the Revised 4262
Code. The director shall not require the release of that accrued 4263
interest more than twice in a fiscal year. 4264

(B) When a participating financial institution makes a 4265

capital access loan, it shall require the eligible business to pay 4266
to the participating financial institution a fee in an amount that 4267
is not less than one and one-half per cent, and not more than 4268
three per cent, of the principal amount of the loan. The 4269
participating financial institution shall deposit the fee into its 4270
program reserve account, and it also shall deposit into the 4271
account an amount of its own funds equal to the amount of the fee. 4272
The participating financial institution may recover from the 4273
eligible business all or part of the amount that the participating 4274
financial institution is required to deposit into the account 4275
under this division in any manner agreed to by the participating 4276
financial institution and the eligible business. 4277

(C) For each capital access loan made by a participating 4278
financial institution, the participating financial institution 4279
shall certify to the director, within a period specified by the 4280
director, that the participating financial institution has made 4281
the loan. The certification shall include the amount of the loan, 4282
the amount of the fee received from the eligible business, the 4283
amount of its own funds that the participating financial 4284
institution deposited into its program reserve account to reflect 4285
that fee, and any other information specified by the director. 4286

(D) ~~On~~ Upon receipt of each of the first three certifications 4287
from a participating financial institution made under division (C) 4288
of this section and subject to section 122.602 of the Revised 4289
Code, the director shall disburse to the participating financial 4290
institution from the capital access loan program fund an amount 4291
equal to fifty per cent of the principal amount of the particular 4292
capital access loan for deposit into the participating financial 4293
institution's program reserve account. Thereafter, upon receipt of 4294
a certification from that participating financial institution made 4295
under division (C) of this section and subject to section 122.602 4296
of the Revised Code, the director shall disburse to the 4297

participating financial institution from the capital access loan 4298
program fund an amount equal to ten per cent of the principal 4299
amount of the particular capital access loan for deposit into the 4300
participating financial institution's program reserve account. The 4301
disbursement of moneys from the fund to a participating financial 4302
institution does not require approval from the controlling board. 4303

(E) If the amount in a program reserve account exceeds an 4304
amount equal to thirty-three per cent of a participating financial 4305
institution's outstanding capital access loans, the department may 4306
cause the withdrawal of the excess amount and the deposit of the 4307
withdrawn amount into the capital access loan program fund. 4308

(F)(1) The department may cause the withdrawal of the total 4309
amount in a participating financial institution's program reserve 4310
account if any of the following applies: 4311

(a) The financial institution is no longer eligible to 4312
participate in the program. 4313

(b) The participation agreement expires without renewal by 4314
the department or the financial institution. 4315

(c) The financial institution has no outstanding capital 4316
access loans. 4317

(d) The financial institution has not made a capital access 4318
loan within the preceding twenty-four months. 4319

(2) If the department causes a withdrawal under division 4320
(F)(1) of this section, the department shall deposit the withdrawn 4321
amount into the capital access loan program fund. 4322

Sec. 122.71. As used in sections 122.71 to 122.83 of the 4323
Revised Code: 4324

(A) "Financial institution" means any banking corporation, 4325
trust company, insurance company, savings and loan association, 4326
building and loan association, or corporation, partnership, 4327

federal lending agency, foundation, or other institution engaged 4328
in lending or investing funds for industrial or business purposes. 4329

(B) "Project" means any real or personal property connected 4330
with or being a part of an industrial, distribution, commercial, 4331
or research facility to be acquired, constructed, reconstructed, 4332
enlarged, improved, furnished, or equipped, or any combination 4333
thereof, with the aid provided under sections 122.71 to 122.83 of 4334
the Revised Code, for industrial, commercial, distribution, and 4335
research development of the state. 4336

(C) "Mortgage" means the lien imposed on a project by a 4337
mortgage on real property, or by financing statements on personal 4338
property, or a combination of a mortgage and financing statements 4339
when a project consists of both real and personal property. 4340

(D) "Mortgagor" means the principal user of a project or the 4341
person, corporation, partnership, or association unconditionally 4342
guaranteeing performance by the principal user of its obligations 4343
under the mortgage. 4344

(E)(1) "Minority business enterprise" means an individual who 4345
is a United States citizen and owns and controls a business, or a 4346
partnership, corporation, or joint venture of any kind that is 4347
owned and controlled by United States citizens, which citizen or 4348
citizens are residents of this state and are members of one of the 4349
following economically disadvantaged groups: Blacks or African 4350
Americans, American Indians, Hispanics or Latinos, and ~~Oriental~~ 4351
Asians. 4352

(2) "Owned and controlled" means that at least fifty-one per 4353
cent of the business, including corporate stock if a corporation, 4354
is owned by persons who belong to one or more of the groups set 4355
forth in division (E)(1) of this section, and that those owners 4356
have control over the management and day-to-day operations of the 4357
business and an interest in the capital, assets, and profits and 4358

losses of the business proportionate to their percentage of 4359
ownership. In order to qualify as a minority business enterprise, 4360
a business shall have been owned and controlled by those persons 4361
at least one year prior to being awarded a contract pursuant to 4362
this section. 4363

(F) "Community improvement corporation" means a corporation 4364
organized under Chapter 1724. of the Revised Code. 4365

(G) "Ohio development corporation" means a corporation 4366
organized under Chapter 1726. of the Revised Code. 4367

(H) "Minority contractors business assistance organization" 4368
means an entity engaged in the provision of management and 4369
technical business assistance to minority business enterprise 4370
entrepreneurs. 4371

(I) "Minority business supplier development council" means a 4372
nonprofit organization established as an affiliate of the national 4373
minority supplier development council. 4374

(J) "Regional economic development entity" means an entity 4375
that is under contract with the director of development to 4376
administer a loan program under this chapter in a particular area 4377
of the state. 4378

Sec. 122.72. (A) There is hereby created the minority 4379
development financing advisory board to assist in carrying out the 4380
programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of 4381
the Revised Code. 4382

(B) The board shall consist of ~~seven~~ ten members. The 4383
director of development or the director's designee shall be a 4384
voting member on the board. Seven members shall be appointed by 4385
the governor with the advice and consent of the senate and 4386
selected because of their knowledge of and experience in 4387
industrial, business, and commercial financing, suretyship, 4388

construction, and their understanding of the problems of minority 4389
business enterprises; one member also shall be a member of the 4390
senate and appointed by the president of the senate, and one 4391
member also shall be a member of the house of representatives and 4392
appointed by the speaker of the house of representatives. With 4393
respect to the board, all of the following apply: 4394

(1) Not more than four of the members of the board appointed 4395
by the governor shall be of the same political party. 4396

(2) Each member shall hold office from the date of the 4397
member's appointment until the end of the term for which the 4398
member was appointed. 4399

(3) The terms of office for the seven members appointed by 4400
the governor shall be for seven years, commencing on the first day 4401
of October and ending on the thirtieth day of September of the 4402
seventh year, except that of the original seven members, three 4403
shall be appointed for three years and two shall be appointed for 4404
five years. 4405

(4) Any member of the board is eligible for reappointment. 4406

(5) Any member appointed to fill a vacancy occurring prior to 4407
the expiration of the term for which ~~his~~ the member's predecessor 4408
was appointed shall hold office for the remainder of ~~his~~ the 4409
predecessor's term. 4410

(6) Any member shall continue in office subsequent to the 4411
expiration date of ~~his~~ the member's term until ~~his~~ the member's 4412
successor takes office, or until a period of sixty days has 4413
elapsed, whichever occurs first. 4414

(7) Before entering upon ~~his~~ official duties as a member of 4415
the board, each member shall take an oath as provided by Section 7 4416
of Article XV, Ohio Constitution. 4417

(8) The governor may, at any time, remove any member 4418

appointed by ~~him~~ the governor pursuant to section 3.04 of the
Revised Code.

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

(10) ~~Five~~ Six members of the board constitute a quorum and
the affirmative vote of ~~five~~ six members is necessary for any
action taken by the board.

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

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

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

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

Sec. 122.73. (A) The minority development financing advisory
board and the director of development are invested with the powers
and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the
Revised Code, in order to promote the welfare of the people of the
state by encouraging the establishment and expansion of minority
business enterprises_{7i} to stabilize the economy_{7i} to provide
employment_{7i} to assist in the development within the state of

industrial, commercial, distribution, and research activities 4449
required for the people of the state, and for their gainful 4450
employment~~7i~~ or otherwise to create or preserve jobs and 4451
employment opportunities, or improve the economic welfare of the 4452
people of the state. It is hereby determined that the 4453
accomplishment of those purposes is essential so that the people 4454
of the state may maintain their present high standards of living 4455
in comparison with the people of other states and so that 4456
opportunities for employment and for favorable markets for the 4457
products of the state's natural resources, agriculture, and 4458
manufacturing shall be improved ~~and~~. It further is determined that 4459
it is necessary for the state to establish the programs authorized 4460
under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to 4461
establish the minority development financing advisory board, and 4462
to invest it and the director of development with the powers and 4463
duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised 4464
Code. 4465

(B) The minority development financing advisory board shall 4466
do all of the following: 4467

(1) Make recommendations to the director as to applications 4468
for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 4469
Revised Code. The board may revise its recommendations to reflect 4470
any changes in the proposed assistance made by the director. 4471

(2) Advise the director in the administration of sections 4472
122.71 to ~~122.89~~ 122.90 of the Revised Code. 4473

(3) Adopt bylaws to govern the conduct of the business of the 4474
board. 4475

Sec. 122.74. (A)(1) The director of development shall do all 4476
of the following: 4477

~~(1)~~(a) Receive applications for assistance under sections 4478

122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing 4479
but subject to division (A)(2) of this section, forward them to 4480
the minority development financing advisory board together with 4481
necessary supporting information; 4482

~~(2)~~(b) Receive the recommendations of the board and make a 4483
final determination whether to approve the application for 4484
assistance; 4485

~~(3)~~(c) Receive recommendations from a regional economic 4486
development entity for loans made under section 122.76 of the 4487
Revised Code and make a final determination, notwithstanding 4488
divisions (A)(1) and (2) of this section, whether to approve the 4489
proposed loan; 4490

(d) Transmit the director's determinations to approve 4491
assistance to the controlling board together with any information 4492
the controlling board requires for its review and decision as to 4493
whether to approve the assistance. 4494

(2) The director is not required to submit any determination, 4495
data, terms, or any other application materials or information to 4496
the minority development financing advisory board when provision 4497
of the assistance has been recommended to the director by a 4498
regional economic development entity. 4499

(B) The director may do all of the following: 4500

(1) Fix the rate of interest and charges to be made upon or 4501
with respect to moneys loaned or guaranteed by the director and 4502
the terms upon which mortgages and lease rentals may be guaranteed 4503
and the rates of charges to be made for them and make provisions 4504
for the operation of the funds established by the director in 4505
accordance with this section and sections 122.80 ~~and~~, 122.88, and 4506
122.90 of the Revised Code; 4507

(2) Loan and guarantee moneys from the fund established in 4508
accordance with section 122.80 of the Revised Code pursuant to and 4509

in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code. 4510
4511

(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper; 4512
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(4) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code; 4517
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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; 4521
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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. 4527
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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.

(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.

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

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

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

(8) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which ~~such~~ the grants, gifts, and contributions are made, from individuals, private and public corporations, from the United States or any agency thereof, from the state or any agency thereof, and from any political subdivision of the state, and may agree to repay any contribution of money or to return any property contributed or the value thereof at such times, in ~~such~~ amounts, and on ~~such~~ terms and conditions, excluding the payment of interest, as the director

determines at the time ~~such~~ the contribution is made, and may 4572
evidence ~~such~~ the obligations by notes, bonds, or other written 4573
instruments; 4574

(9) Establish with the treasurer of state the funds provided 4575
in sections 122.80 and 122.88 of the Revised Code in addition to 4576
such funds as the director determines are necessary or proper; 4577

(10) Adopt rules under Chapter 119. of the Revised Code 4578
necessary to implement sections 122.71 to ~~122.83~~ 122.90 of the 4579
Revised Code. 4580

(11) Do all acts and things necessary or proper to carry out 4581
the powers expressly granted and the duties imposed in sections 4582
122.71 to ~~122.89~~ 122.90 of the Revised Code. 4583

(C)(1) All expenses and obligations incurred by the director 4584
in carrying out the director's powers and in exercising the 4585
director's duties under sections 122.71 to ~~122.89~~ 122.90 of the 4586
Revised Code shall be payable solely from revenues or other 4587
receipts or income of the director, from grants, gifts, and 4588
contributions, or funds established in accordance with such 4589
sections. Such sections do not authorize the director to incur 4590
indebtedness or to impose liability on the state or any political 4591
subdivision of the state. 4592

(2) Financial statements and other data submitted to the 4593
director by any corporation, partnership, or person in connection 4594
with financial assistance provided under sections 122.71 to ~~122.89~~ 4595
122.90 of the Revised Code, or any information taken from such 4596
statements or data for any purpose, shall not be open to public 4597
inspection. 4598

Sec. 122.75. The director of development shall, for the 4599
minority business development loan program ~~and~~, the minority 4600
business bonding program, and the minority business bond guarantee 4601

program under sections 122.87 to ~~122.89~~ 122.90 of the Revised Code, do all of the following:

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

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

(C) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which the grants, gifts, and contributions are made, from individuals, private and 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; 4633

(F) Acquire any property of any kind or character in 4634
accordance with sections 122.71 to 122.83 of the Revised Code, by 4635
purchase, purchase at foreclosure, or exchange on terms and in a 4636
manner the director considers proper; 4637

(G)(1) Maintain, protect, repair, improve, and insure any 4638
property the director has acquired and dispose of it by sale, 4639
exchange, or lease for the consideration and on terms and in a 4640
manner the director considers proper. The director may not operate 4641
any property as a business except as a lessor of the property. 4642
When the cost of any contract for the maintenance, protection, 4643
repair, or improvement of any property of the advisory board 4644
connected with the minority business development loan program, 4645
other than compensation for personal services, involves an 4646
expenditure of more than one thousand dollars, the director shall 4647
enter into a written contract with the lowest and best bidder 4648
after advertisement for not less than four consecutive weeks in a 4649
newspaper of general circulation in the county where the contract, 4650
or some substantial part of it, is to be performed, and in other 4651
publications as the director determines. The notice shall state 4652
the general character of the work and the general character of the 4653
materials to be furnished, the place where plans and 4654
specifications for the work and materials may be examined, and the 4655
time and place of receiving bids. 4656

(2) Each bid for a contract for the construction, demolition, 4657
alteration, repair, or reconstruction of an improvement shall 4658
contain the full name of every person interested in it and meet 4659
the requirements of section 153.54 of the Revised Code. 4660

(3) Each bid for a contract, except as provided in division 4661
(G)(2) of this section, shall contain the full name of every 4662
person interested in it and shall be accompanied by a bond or 4663
certified check on a solvent bank, in the amount of ten per cent 4664

of the bid, that if the bid is accepted a contract will be entered
into and the performance of its proposal secured. The director may
reject any or all bids. A bond with good and sufficient surety,
approved by the director, shall be required of all contractors in
an amount equal to at least one hundred per cent of the contract
price, conditioned upon faithful performance of the contract.

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

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

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

Sec. 122.76. (A) The director of development, with
controlling board approval, may lend funds to minority business
enterprises and to community improvement corporations, Ohio
development corporations, minority contractors business assistance
organizations, and minority business supplier development councils
for the purpose of loaning funds to minority business enterprises
and for the purpose of procuring or improving real or personal

property, or both, for the establishment, location, or expansion 4695
of industrial, distribution, commercial, or research facilities in 4696
the state, if the director determines, in the director's sole 4697
discretion, that all of the following apply: 4698

(1) The project is economically sound and will benefit the 4699
people of the state by increasing opportunities for employment, by 4700
strengthening the economy of the state, or expanding minority 4701
business enterprises. 4702

(2) The proposed minority business enterprise borrower is 4703
unable to finance the proposed project through ordinary financial 4704
channels at comparable terms. 4705

(3) The value of the project is or, upon completion, will be 4706
at least equal to the total amount of the money expended in the 4707
procurement or improvement of the project, and one or more 4708
financial institutions or other governmental entities have loaned 4709
not less than thirty per cent of that amount. 4710

(4) The amount to be loaned by the director will not exceed 4711
sixty per cent of the total amount expended in the procurement or 4712
improvement of the project. 4713

(5) The amount to be loaned by the director will be 4714
adequately secured by a first or second mortgage upon the project 4715
or by mortgages, leases, liens, assignments, or pledges on or of 4716
other property or contracts as the director requires, and such 4717
mortgage will not be subordinate to any other liens or mortgages 4718
except the liens securing loans or investments made by financial 4719
institutions referred to in division (A)(3) of this section, and 4720
the liens securing loans previously made by any financial 4721
institution in connection with the procurement or expansion of all 4722
or part of a project. 4723

(B) Any proposed minority business enterprise borrower 4724
submitting an application for assistance under this section shall 4725

not have defaulted on a previous loan from the director, and no 4726
full or limited partner, major shareholder, or holder of an equity 4727
interest of the proposed minority business enterprise borrower 4728
shall have defaulted on a loan from the director. 4729

(C) The proposed minority business enterprise borrower shall 4730
demonstrate to the satisfaction of the director that it is able to 4731
successfully compete in the private sector if it obtains the 4732
necessary financial, technical, or managerial support and that 4733
support is available through the director, the minority business 4734
development office of the department of development, or other 4735
identified and acceptable sources. In determining whether a 4736
minority business enterprise borrower will be able to successfully 4737
compete, the director may give consideration to such factors as 4738
the successful completion of or participation in courses of study, 4739
recognized by the board of regents as providing financial, 4740
technical, or managerial skills related to the operation of the 4741
business, by the economically disadvantaged individual, owner, or 4742
partner, and the prior success of the individual, owner, or 4743
partner in personal, career, or business activities, as well as to 4744
other factors identified by the director. 4745

(D) The director shall not lend funds for the purpose of 4746
procuring or improving motor vehicles, ~~power-driven vehicles,~~ 4747
~~office equipment, raw materials, small tools, supplies,~~ 4748
~~inventories,~~ or accounts receivable. 4749

Sec. 122.77. (A) The director of development with controlling 4750
board approval may make loan guarantees to small businesses and 4751
corporations for the purpose of guaranteeing loans made to small 4752
businesses by financial institutions for the purpose of procuring 4753
or improving real or personal property, or both, for the 4754
establishment, location, or expansion of industrial, distribution, 4755
commercial, or research facilities in the state, if the director 4756

determines, in ~~his~~ the director's sole discretion, that all of the 4757
following apply: 4758

(1) The project is economically sound and will benefit the 4759
people of the state by increasing opportunities for employment, by 4760
strengthening the economy of the state, or expanding minority 4761
business enterprises~~+~~. 4762

(2) The proposed small business borrower is unable to finance 4763
the proposed project through ordinary financial channels at 4764
comparable terms~~+~~. 4765

(3) The value of the project is, or upon completion of it 4766
will be, at least equal to the total amount of the money expended 4767
in the procurement or improvement of the project and of which 4768
amount one or more financial institutions or other governmental 4769
entities have loaned not less than thirty per cent~~+~~. 4770

(4) The amount to be guaranteed by the director will not 4771
exceed ~~fifty~~ eighty per cent of the total amount expended in the 4772
procurement or improvement of the project~~+~~. 4773

(5) The amount to be guaranteed by the director will be 4774
adequately secured by a first or second mortgage upon the project, 4775
or by mortgages, leases, liens, assignments, or pledges on or of 4776
other property or contracts as the director shall require and that 4777
such mortgage will not be subordinate to any other liens or 4778
mortgages except the liens securing loans or investments made by 4779
financial institutions referred to in division (A)(3) of this 4780
section, and the liens securing loans previously made by any 4781
financial institution in connection with the procurement or 4782
expansion of all or part of a project. 4783

(B) The proposed small business borrower shall not have 4784
defaulted on a previous loan or guarantee from the director, and 4785
no full or limited partner, or major shareholder, or holder of any 4786
equity interest of the proposed minority business enterprise 4787

borrower shall have defaulted on a loan or guarantee from the 4788
director. 4789

(C) The proposed small business borrower shall demonstrate to 4790
the satisfaction of the director that it is able to successfully 4791
compete in the private sector if it obtains the necessary 4792
financial, technical, or managerial support and that support is 4793
available through the director, the minority business development 4794
office of the department of development, or other identified and 4795
acceptable sources. In determining whether a small business 4796
borrower will be able to successfully compete, the director may 4797
give consideration to such factors as the successful completion of 4798
or participation in courses of study, recognized by the board of 4799
regents as providing financial, technical, or managerial skills 4800
related to the operation of the business, by the economically 4801
disadvantaged individual, owner, or partner, and the prior success 4802
of the individual, owner, or partner in personal, career, or 4803
business activities, as well as to other factors identified by the 4804
director. 4805

(D) The director shall not guarantee funds for the purpose of 4806
procuring or improving motor vehicles, ~~power driven vehicles,~~ 4807
~~office equipment, raw materials, small tools, supplies,~~ 4808
~~inventories,~~ or accounts receivable. 4809

Sec. 122.78. Fees, charges, rates of interest, times of 4810
payment of interest and principal, and other terms, conditions, 4811
and provisions of the loans and guarantees made by the director of 4812
development pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 4813
Revised Code shall be such as the director determines to be 4814
appropriate and in furtherance of the purpose for which the loans 4815
and guarantees are made, but the mortgage lien securing any money 4816
loaned or guaranteed by the director may be subordinate to the 4817
mortgage lien securing any money loaned or invested by a financial 4818

institution, but shall be superior to that securing any money 4819
loaned or expended by any other corporation or person. The funds 4820
used in making these loans or guarantees shall be disbursed upon 4821
order of the director. 4822

Sec. 122.79. The exercise of the powers granted by sections 4823
122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all 4824
respects for the benefit of the people of the state, for the 4825
increase of their commerce and prosperity, for the increase and 4826
expansion of minority business enterprises, and for the 4827
improvement of conditions of employment, and will constitute the 4828
performance of essential governmental functions; therefore, the 4829
director of development shall not be required to pay any taxes 4830
upon any property or assets held by ~~him~~ the director, or upon any 4831
property acquired or used by ~~him~~ the director under sections 4832
122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income 4833
from it, provided that this exemption shall not apply to any 4834
property held by the director while it is in the possession of a 4835
private person, partnership, or corporation and used for private 4836
purposes for profit, in which case such tax liability shall accrue 4837
to ~~such~~ the private person, partnership, or corporation. 4838

Sec. 122.82. All moneys, funds, properties, and assets 4839
acquired by the director of development shall be held by ~~him~~ the 4840
director in trust to carry out ~~his~~ the director's powers and 4841
duties, shall be used as provided in sections 122.71 to ~~122.89~~ 4842
122.90 of the Revised Code, and shall at no time be part of other 4843
public funds. 4844

Sec. 122.83. Any person who intentionally misrepresents that 4845
person's self as owning, controlling, operating, or participating 4846
in a minority business enterprise for the purpose of obtaining 4847
funds, contracts, subcontracts, services, or any other benefits 4848

under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the 4849
Revised Code is guilty of theft by deception, pursuant to section 4850
2913.02 of the Revised Code. 4851

Sec. 122.95. As used in sections 122.95 to 122.952 of the 4852
Revised Code: 4853

(A) "Commercial or industrial areas" means areas ~~established~~ 4854
~~by a state, county, municipal, or other~~ zoned either commercial or 4855
industrial by the local zoning authority ~~as being most appropriate~~ 4856
~~for business, commerce, industry, or trade~~ or an area not zoned ~~by~~ 4857
~~state or local law, regulation, or ordinance~~, but in which there 4858
is located one or more commercial or industrial activities. 4859

(B) "Eligible county" means any of the following: 4860

(1) A county designated as being in the "Appalachian region" 4861
under the "Appalachian Regional Development Act of 1965," 79 Stat. 4862
5, 40 U.S.C. App. 403; 4863

(2) A county that is a "distressed area" as defined in 4864
section 122.16 of the Revised Code; 4865

(3) A county that within the previous calendar year has had a 4866
~~population of less than one hundred thousand according to the most~~ 4867
~~recent federal decennial census and in which three hundred fifty~~ 4868
~~or more residents of the county were, during the most recently~~ 4869
~~completed calendar year, permanently or temporarily terminated~~ 4870
~~from a private sector employment position for any reason not~~ 4871
~~reflecting discredit on the employee;~~ 4872

~~(4) A county that has a population of one hundred thousand or~~ 4873
~~more according to the most recent federal decennial census and in~~ 4874
~~which one thousand or more residents of the county were, during~~ 4875
~~the most recently completed calendar year, permanently or~~ 4876
~~temporarily terminated from a private sector employment position~~ 4877
~~for any reason not reflecting discredit on the employee~~ job loss 4878

numbering two hundred or more of which one hundred or more are 4879
manufacturing-related as reported in the notices prepared by the 4880
department of job and family services pursuant to the "Worker 4881
Adjustment and Retraining Notification Act," 102 Stat. 890 (1988), 4882
29 U.S.C. 2101 et seq., as amended. 4883

Sec. 122.951. (A) If the director of development determines 4884
that a grant from the industrial site improvement fund ~~will~~ may 4885
create new jobs or preserve existing jobs and employment 4886
opportunities in an eligible county, the director may grant up to 4887
~~one million~~ five hundred thousand dollars from the fund to the 4888
eligible county for the purpose of acquiring commercial or 4889
industrial land or buildings and making improvements to commercial 4890
or industrial areas within the eligible county, including, but not 4891
limited to: 4892

(1) Expanding, remodeling, renovating, and modernizing 4893
buildings, structures, and other improvements; 4894

(2) Remediating environmentally contaminated property on 4895
which hazardous substances exist under conditions that have caused 4896
or would cause the property to be identified as contaminated by 4897
the Ohio or United States environmental protection agency; and 4898

(3) Infrastructure improvements, including, but not limited 4899
to, site preparation, including building demolition and removal; 4900
streets, roads, bridges, and traffic control devices; parking lots 4901
and facilities; water and sewer lines and treatment plants; gas, 4902
electric, and telecommunications, including broadband, hook-ups; 4903
and water and railway access improvements. 4904

A grant awarded under this section shall provide not more 4905
than seventy-five per cent of the estimated total cost of the 4906
project for which an application is submitted under this section. 4907
In addition, not more than ten per cent of the amount of the grant 4908
shall be used to pay the costs of professional services related to 4909

the project.

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(B) An eligible county may apply to the director for a grant under this section in the form and manner prescribed by the director. The eligible county shall include on the application all information required by the director. The application shall require the eligible county to provide a detailed description of how the eligible county would use a grant to improve commercial or industrial areas within the eligible county, and to specify how a grant will lead to the creation of new jobs or the preservation of existing jobs and employment opportunities in the eligible county. The eligible county shall specify in the application the amount of the grant for which the eligible county is applying.

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(C) An eligible county that receives a grant under this section is not eligible for any additional grants from the industrial site improvement fund in the fiscal year in which the grant is received and in the subsequent fiscal year.

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(D) An eligible county may designate a port authority, community improvement corporation as defined in section 122.71 of the Revised Code, or other economic development entity that is located in the county to apply for a grant under this section. If a port authority, community improvement corporation, or other economic development entity is so designated, references to an eligible county in this section include references to the authority, corporation, or other entity.

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

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(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans,

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specifications, bills of materials, and estimates of cost for any 4940
projects, improvements, or public buildings to be constructed by 4941
state agencies that may be authorized by legislative 4942
appropriations or any other funds made available therefor, 4943
provided that the construction of the projects, improvements, or 4944
public buildings is a statutory duty of the department. This 4945
section does not require the independent employment of an 4946
architect or engineer as provided by section 153.01 of the Revised 4947
Code in the cases to which that section applies nor affect or 4948
alter the existing powers of the director of transportation. 4949

(2) To have general supervision over the construction of any 4950
projects, improvements, or public buildings constructed for a 4951
state agency and over the inspection of materials previous to 4952
their incorporation into those projects, improvements, or 4953
buildings; 4954

(3) To make contracts for and supervise the construction of 4955
any projects and improvements or the construction and repair of 4956
buildings under the control of a state agency, except contracts 4957
for the repair of buildings under the management and control of 4958
the departments of public safety, job and family services, mental 4959
health, mental retardation and developmental disabilities, 4960
rehabilitation and correction, and youth services, the bureau of 4961
workers' compensation, the rehabilitation services commission, and 4962
boards of trustees of educational and benevolent institutions and 4963
except contracts for the construction of projects that are 4964
necessary to remediate conditions at a hazardous waste facility, 4965
solid waste facility, or other location at which the director of 4966
environmental protection has reason to believe there is a 4967
substantial threat to public health or safety or the environment. 4968
These contracts shall be made and entered into by the directors of 4969
public safety, job and family services, mental health, mental 4970
retardation and developmental disabilities, rehabilitation and 4971

correction, and youth services, the administrator of workers' 4972
compensation, the rehabilitation services commission, ~~and~~ the 4973
boards of trustees of such institutions, and the director of 4974
environmental protection, respectively. All such contracts may be 4975
in whole or in part on unit price basis of maximum estimated cost, 4976
with payment computed and made upon actual quantities or units. 4977

(4) To prepare and suggest comprehensive plans for the 4978
development of grounds and buildings under the control of a state 4979
agency; 4980

(5) To acquire, by purchase, gift, devise, lease, or grant, 4981
all real estate required by a state agency, in the exercise of 4982
which power the department may exercise the power of eminent 4983
domain, in the manner provided by sections 163.01 to 163.22 of the 4984
Revised Code; 4985

(6) To make and provide all plans, specifications, and models 4986
for the construction and perfection of all systems of sewerage, 4987
drainage, and plumbing for the state in connection with buildings 4988
and grounds under the control of a state agency; 4989

(7) To erect, supervise, and maintain all public monuments 4990
and memorials erected by the state, except where the supervision 4991
and maintenance is otherwise provided by law; 4992

(8) To procure, by lease, storage accommodations for a state 4993
agency; 4994

(9) To lease or grant easements or licenses for unproductive 4995
and unused lands or other property under the control of a state 4996
agency. Such leases, easements, or licenses shall be granted for a 4997
period not to exceed fifteen years and shall be executed for the 4998
state by the director of administrative services and the governor 4999
and shall be approved as to form by the attorney general, provided 5000
that leases, easements, or licenses may be granted to any county, 5001
township, municipal corporation, port authority, water or sewer 5002

district, school district, library district, health district, park 5003
district, soil and water conservation district, conservancy 5004
district, or other political subdivision or taxing district, or 5005
any agency of the United States government, for the exclusive use 5006
of that agency, political subdivision, or taxing district, without 5007
any right of sublease or assignment, for a period not to exceed 5008
fifteen years, and provided that the director shall grant leases, 5009
easements, or licenses of university land for periods not to 5010
exceed twenty-five years for purposes approved by the respective 5011
university's board of trustees wherein the uses are compatible 5012
with the uses and needs of the university and may grant leases of 5013
university land for periods not to exceed forty years for purposes 5014
approved by the respective university's board of trustees pursuant 5015
to section 123.77 of the Revised Code. 5016

(10) To lease office space in buildings for the use of a 5017
state agency; 5018

(11) To have general supervision and care of the storerooms, 5019
offices, and buildings leased for the use of a state agency; 5020

(12) To exercise general custodial care of all real property 5021
of the state; 5022

(13) To assign and group together state offices in any city 5023
in the state and to establish, in cooperation with the state 5024
agencies involved, rules governing space requirements for office 5025
or storage use; 5026

(14) To lease for a period not to exceed forty years, 5027
pursuant to a contract providing for the construction thereof 5028
under a lease-purchase plan, buildings, structures, and other 5029
improvements for any public purpose, and, in conjunction 5030
therewith, to grant leases, easements, or licenses for lands under 5031
the control of a state agency for a period not to exceed forty 5032
years. The lease-purchase plan shall provide that at the end of 5033

the lease period, the buildings, structures, and related 5034
improvements, together with the land on which they are situated, 5035
shall become the property of the state without cost. 5036

(a) Whenever any building, structure, or other improvement is 5037
to be so leased by a state agency, the department shall retain 5038
either basic plans, specifications, bills of materials, and 5039
estimates of cost with sufficient detail to afford bidders all 5040
needed information or, alternatively, all of the following plans, 5041
details, bills of materials, and specifications: 5042

(i) Full and accurate plans suitable for the use of mechanics 5043
and other builders in the improvement; 5044

(ii) Details to scale and full sized, so drawn and 5045
represented as to be easily understood; 5046

(iii) Accurate bills showing the exact quantity of different 5047
kinds of material necessary to the construction; 5048

(iv) Definite and complete specifications of the work to be 5049
performed, together with such directions as will enable a 5050
competent mechanic or other builder to carry them out and afford 5051
bidders all needed information; 5052

(v) A full and accurate estimate of each item of expense and 5053
of the aggregate cost thereof. 5054

(b) The department shall give public notice, in such 5055
newspaper, in such form, and with such phraseology as the director 5056
of administrative services prescribes, published once each week 5057
for four consecutive weeks, of the time when and place where bids 5058
will be received for entering into an agreement to lease to a 5059
state agency a building, structure, or other improvement. The last 5060
publication shall be at least eight days preceding the day for 5061
opening the bids. The bids shall contain the terms upon which the 5062
builder would propose to lease the building, structure, or other 5063

improvement to the state agency. The form of the bid approved by
the department shall be used, and a bid is invalid and shall not
be considered unless that form is used without change, alteration,
or addition. Before submitting bids pursuant to this section, any
builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for
entering into lease agreements with a state agency, the director
of administrative services shall open the bids and shall publicly
proceed immediately to tabulate the bids upon duplicate sheets. No
lease agreement shall be entered into until the bureau of workers'
compensation has certified that the person to be awarded the lease
agreement has complied with Chapter 4123. of the Revised Code,
until, if the builder submitting the lowest and best bid is a
foreign corporation, the secretary of state has certified that the
corporation is authorized to do business in this state, until, if
the builder submitting the lowest and best bid is a person
nonresident of this state, the person has filed with the secretary
of state a power of attorney designating the secretary of state as
its agent for the purpose of accepting service of summons in any
action brought under Chapter 4123. of the Revised Code, and until
the agreement is submitted to the attorney general and the
attorney general's approval is certified thereon. Within thirty
days after the day on which the bids are received, the department
shall investigate the bids received and shall determine that the
bureau and the secretary of state have made the certifications
required by this section of the builder who has submitted the
lowest and best bid. Within ten days of the completion of the
investigation of the bids, the department shall award the lease
agreement to the builder who has submitted the lowest and best bid
and who has been certified by the bureau and secretary of state as
required by this section. If bidding for the lease agreement has
been conducted upon the basis of basic plans, specifications,

bills of materials, and estimates of costs, upon the award to the
builder the department, or the builder with the approval of the
department, shall appoint an architect or engineer licensed in
this state to prepare such further detailed plans, specifications,
and bills of materials as are required to construct the building,
structure, or improvement. The department shall adopt such rules
as are necessary to give effect to this section. The department
may reject any bid. Where there is reason to believe there is
collusion or combination among bidders, the bids of those
concerned therein shall be rejected.

(15) To acquire by purchase, gift, devise, or grant and to
transfer, lease, or otherwise dispose of all real property
required to assist in the development of a conversion facility as
defined in section 5709.30 of the Revised Code as that section
existed before its repeal by Amended Substitute House Bill 95 of
the 125th general assembly;

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

Such a lease shall be for the purpose of development of the
land for use by senior citizens by constructing, altering,
renovating, repairing, expanding, and improving the site as it
existed on June 25, 1982. A developer desiring to lease the land
shall prepare for submission to the department a plan for
development. Plans shall include provisions for roads, sewers,
water lines, waste disposal, water supply, and similar matters to
meet the requirements of state and local laws. The plans shall
also include provision for protection of the property by insurance

or otherwise, and plans for financing the development, and shall 5128
set forth details of the developer's financial responsibility. 5129

The department may employ, as employees or consultants, 5130
persons needed to assist in reviewing the development plans. Those 5131
persons may include attorneys, financial experts, engineers, and 5132
other necessary experts. The department shall review the 5133
development plans and may enter into a lease if it finds all of 5134
the following: 5135

(a) The best interests of the state will be promoted by 5136
entering into a lease with the developer; 5137

(b) The development plans are satisfactory; 5138

(c) The developer has established the developer's financial 5139
responsibility and satisfactory plans for financing the 5140
development. 5141

The lease shall contain a provision that construction or 5142
renovation of the buildings, roads, structures, and other 5143
necessary facilities shall begin within one year after the date of 5144
the lease and shall proceed according to a schedule agreed to 5145
between the department and the developer or the lease will be 5146
terminated. The lease shall contain such conditions and 5147
stipulations as the director considers necessary to preserve the 5148
best interest of the state. Moneys received by the state pursuant 5149
to this lease shall be paid into the general revenue fund. The 5150
lease shall provide that at the end of the lease period the 5151
buildings, structures, and related improvements shall become the 5152
property of the state without cost. 5153

(17) To lease to any person any tract of land owned by the 5154
state and under the control of the department, or any part of such 5155
a tract, for the purpose of drilling for or the pooling of oil or 5156
gas. Such a lease shall be granted for a period not exceeding 5157
forty years, with the full power to contract for, determine the 5158

conditions governing, and specify the amount the state shall 5159
receive for the purposes specified in the lease, and shall be 5160
prepared as in other cases. 5161

(18) To manage the use of space owned and controlled by the 5162
department, including space in property under the jurisdiction of 5163
the Ohio building authority, by doing all of the following: 5164

(a) Biennially implementing, by state agency location, a 5165
census of agency employees assigned space; 5166

(b) Periodically in the discretion of the director of 5167
administrative services: 5168

(i) Requiring each state agency to categorize the use of 5169
space allotted to the agency between office space, common areas, 5170
storage space, and other uses, and to report its findings to the 5171
department; 5172

(ii) Creating and updating a master space utilization plan 5173
for all space allotted to state agencies. The plan shall 5174
incorporate space utilization metrics. 5175

(iii) Conducting a cost-benefit analysis to determine the 5176
effectiveness of state-owned buildings; 5177

(iv) Assessing the alternatives associated with consolidating 5178
the commercial leases for buildings located in Columbus. 5179

(c) Commissioning a comprehensive space utilization and 5180
capacity study in order to determine the feasibility of 5181
consolidating existing commercially leased space used by state 5182
agencies into a new state-owned facility. 5183

(B) This section and section 125.02 of the Revised Code shall 5184
not interfere with any of the following: 5185

(1) The power of the adjutant general to purchase military 5186
supplies, or with the custody of the adjutant general of property 5187
leased, purchased, or constructed by the state and used for 5188

military purposes, or with the functions of the adjutant general 5189
as director of state armories; 5190

(2) The power of the director of transportation in acquiring 5191
rights-of-way for the state highway system, or the leasing of 5192
lands for division or resident district offices, or the leasing of 5193
lands or buildings required in the maintenance operations of the 5194
department of transportation, or the purchase of real property for 5195
garage sites or division or resident district offices, or in 5196
preparing plans and specifications for and constructing such 5197
buildings as the director may require in the administration of the 5198
department; 5199

(3) The power of the director of public safety and the 5200
registrar of motor vehicles to purchase or lease real property and 5201
buildings to be used solely as locations to which a deputy 5202
registrar is assigned pursuant to division (B) of section 4507.011 5203
of the Revised Code and from which the deputy registrar is to 5204
conduct the deputy registrar's business, the power of the director 5205
of public safety to purchase or lease real property and buildings 5206
to be used as locations for division or district offices as 5207
required in the maintenance of operations of the department of 5208
public safety, and the power of the superintendent of the state 5209
highway patrol in the purchase or leasing of real property and 5210
buildings needed by the patrol, to negotiate the sale of real 5211
property owned by the patrol, to rent or lease real property owned 5212
or leased by the patrol, and to make or cause to be made repairs 5213
to all property owned or under the control of the patrol; 5214

(4) The power of the division of liquor control in the 5215
leasing or purchasing of retail outlets and warehouse facilities 5216
for the use of the division; 5217

(5) The power of the director of development to enter into 5218
leases of real property, buildings, and office space to be used 5219

solely as locations for the state's foreign offices to carry out 5220
the purposes of section 122.05 of the Revised Code; 5221

(6) The power of the director of environmental protection to 5222
enter into environmental covenants, to grant and accept easements, 5223
or to sell property pursuant to division (G) of section 3745.01 of 5224
the Revised Code. 5225

(C) Purchases for, and the custody and repair of, buildings 5226
under the management and control of the capitol square review and 5227
advisory board, the rehabilitation services commission, the bureau 5228
of workers' compensation, or the departments of public safety, job 5229
and family services, mental health, mental retardation and 5230
developmental disabilities, and rehabilitation and correction, and 5231
buildings of educational and benevolent institutions under the 5232
management and control of boards of trustees, are not subject to 5233
the control and jurisdiction of the department of administrative 5234
services. 5235

(D) Any instrument by which real property is acquired 5236
pursuant to this section shall identify the agency of the state 5237
that has the use and benefit of the real property as specified in 5238
section 5301.012 of the Revised Code. 5239

Sec. 123.152. (A) As used in this section, "EDGE business 5240
enterprise" means a sole proprietorship, association, partnership, 5241
corporation, limited liability corporation, or joint venture 5242
certified as a participant in the encouraging diversity, growth, 5243
and equity program by the director of administrative services 5244
under this section of the Revised Code. 5245

(B) The director of administrative services shall establish a 5246
business assistance program known as the encouraging diversity, 5247
growth, and equity program and shall adopt rules in accordance 5248
with Chapter 119. of the Revised Code to administer the program 5249

and that do all of the following: 5250

(1) Establish procedures by which a sole proprietorship, 5251
association, partnership, corporation, limited liability 5252
corporation, or joint venture may apply for certification as an 5253
EDGE business enterprise; 5254

(2) ~~Establish~~ Except as provided in division (B)(14) of this 5255
section, establish agency procurement goals for contracting with 5256
EDGE business enterprises in the award of contracts under Chapters 5257
123., 125., and 153. of the Revised Code based on the availability 5258
of eligible program participants by region or geographic area, as 5259
determined by the director, and by standard industrial code or 5260
equivalent code classification. 5261

(a) Goals established under division (B)(2) of this section 5262
shall be based on a percentage level of participation and a 5263
percentage of contractor availability. 5264

(b) Goals established under division (B)(2) of this section 5265
shall be applied at the contract level, relative to an overall 5266
dollar goal for each state agency, in accordance with the 5267
following certification categories: construction, architecture, 5268
and engineering; professional services; goods and services; and 5269
information technology services. 5270

(3) Establish a system of certifying EDGE business 5271
enterprises based on a requirement that the business owner or 5272
owners show both social and economic disadvantage based on the 5273
following, as determined to be sufficient by the director: 5274

(a) Relative wealth of the business seeking certification as 5275
well as the personal wealth of the owner or owners of the 5276
business; 5277

(b) Social disadvantage based on any of the following: 5278

(i) A rebuttable presumption when the business owner or 5279

owners demonstrate membership in a racial minority group or show	5280
personal disadvantage due to color, ethnic origin, gender,	5281
physical disability, long-term residence in an environment	5282
isolated from the mainstream of American society, location in an	5283
area of high unemployment;	5284
(ii) Some other demonstration of personal disadvantage not	5285
common to other small businesses;	5286
(iii) By business location in a qualified census tract.	5287
(c) Economic disadvantage based on economic and business size	5288
thresholds and eligibility criteria designed to stimulate economic	5289
development through contract awards to businesses located in	5290
qualified census tracts.	5291
(4) Establish standards to determine when an EDGE business	5292
enterprise no longer qualifies for EDGE business enterprise	5293
certification;	5294
(5) Develop a process for evaluating and adjusting goals	5295
established by this section to determine what adjustments are	5296
necessary to achieve participation goals established by the	5297
director;	5298
(6) Establish a point system <u>or comparable system</u> to evaluate	5299
bid proposals to encourage EDGE business enterprises to	5300
participate in the procurement of professional design and	5301
information technology services;	5302
(7) Establish a system to track data and analyze each	5303
certification category established under division (B)(2)(b) of	5304
this section;	5305
(8) Establish a process to mediate complaints and to review	5306
EDGE business enterprise certification appeals;	5307
(9) Implement an outreach program to educate potential	5308
participants about the encouraging diversity, growth, and equity	5309

program; 5310

(10) Establish a system to assist state agencies in 5311
identifying and utilizing EDGE business enterprises in their 5312
contracting processes; 5313

(11) Implement a system of self-reporting by EDGE business 5314
enterprises as well as an on-site inspection process to validate 5315
the qualifications of an EDGE business enterprise; 5316

(12) Establish a waiver mechanism to waive program goals or 5317
participation requirements for those companies that, despite their 5318
best-documented efforts, are unable to contract with certified 5319
EDGE business enterprises; 5320

(13) Establish a process for monitoring overall program 5321
compliance in which equal employment opportunity officers 5322
primarily are responsible for monitoring their respective 5323
agencies; 5324

(14) Establish guidelines for state universities as defined 5325
in section 3345.011 of the Revised Code and the Ohio school 5326
facilities commission created in section 3318.30 of the Revised 5327
Code for awarding contracts pursuant to Chapters 153., 3318., and 5328
3345. of the Revised Code to allow the universities and commission 5329
to establish agency procurement goals for contracting with EDGE 5330
business enterprises. 5331

~~(C) Not later than December 31, 2003, the director of 5332
administrative services shall prepare a detailed report to the 5333
governor outlining and evaluating the progress made in 5334
implementing the Business and personal financial information and 5335
trade secrets submitted by encouraging diversity, growth, and 5336
equity program applicants to the director pursuant to this section 5337
are not public records for purposes of section 149.43 of the 5338
Revised Code, unless the director presents the financial 5339
information or trade secrets at a public hearing or public 5340~~

proceeding regarding the applicant's eligibility to participate in 5341
the program. 5342

Sec. 123.17. (A) As used in this section, "institution of 5343
higher education" means a state university or college, as defined 5344
in section 3345.12 of the Revised Code, or a state community 5345
college. 5346

(B) ~~The~~ Not later than December 30, 2005, the state architect 5347
shall establish a local administration competency certification 5348
program to certify institutions of higher education to administer 5349
capital facilities projects pursuant to section 3345.51 of the 5350
Revised Code without the supervision, control, or approval of the 5351
department of administrative services. The program shall offer 5352
instruction in the administration of capital facilities projects 5353
for employees of institutions of higher education who are 5354
responsible for such administration and who are selected by their 5355
employing institutions to participate in the program. 5356

(C) The program shall provide instruction about the 5357
provisions of Chapters 9., 123., and 153. of the Revised Code and 5358
any rules or policies adopted by the department regarding the 5359
planning, design, and construction of capital facilities, 5360
including all of the following: 5361

- (1) The planning, design, and construction process; 5362
- (2) Contract requirements; 5363
- (3) Construction management; 5364
- (4) Project management. 5365

(D) The state architect shall award local administration 5366
competency certification to any institution of higher education if 5367
all of the following apply: 5368

- (1) The institution applied for certification on a form and 5369
in a manner prescribed by the state architect. 5370

(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~~ have successfully 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.

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

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

(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.

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

(E) Local administration competency certification granted under this section shall remain in effect for as long as the Ohio board of regents determines that both of the following apply:

(1) The institution of higher education maintains a 5402
sufficient number of employees responsible for the administration 5403
of capital facilities projects who have successfully completed the 5404
certification program and have demonstrated a satisfactory level 5405
of knowledge of and competency in the requirements for 5406
administering capital facilities projects; 5407

(2) The institution is performing the biennial audits 5408
prescribed in division (C) of section 3345.51 of the Revised Code. 5409

If the board of regents determines that an institution of 5410
higher education has failed to comply with the conditions of 5411
division (E)(1) or (2) of this section, the board shall notify the 5412
state architect of that fact. Upon such notification, the state 5413
architect shall revoke the institution's certification and shall 5414
notify the board of trustees of the institution in writing of the 5415
revocation. 5416

(F) The state architect shall establish, subject to the 5417
approval of the director of budget and management, the amount of 5418
the fee required to be paid by any institution of higher education 5419
that seeks certification under this section. The amount of the 5420
fees shall be set to cover the costs to implement this section, 5421
including the costs for materials and the competency certification 5422
training sessions. Any fees received under this section shall be 5423
paid into the state treasury to the credit of the state 5424
architect's fund established under section 123.10 of the Revised 5425
Code. 5426

~~(F)~~(G) Nothing in this section shall prohibit an institution 5427
that administers a capital facilities project under section 5428
3345.51 of the Revised Code from requesting guidance or other 5429
services from the department of administrative services. 5430

Sec. 124.07. (A) The director of administrative services 5431

shall appoint ~~such~~ examiners, inspectors, clerks, and other 5432
assistants as ~~are~~ necessary to carry out sections 124.01 to 124.64 5433
of the Revised Code. The director may designate persons in or out 5434
of the ~~official~~ service of the state to serve as examiners or 5435
assistants under the director's direction. An examiner or 5436
assistant shall receive ~~such~~ the compensation for each day 5437
actually and necessarily spent in the discharge of duties as an 5438
examiner or assistant ~~as is determined by that~~ the director 5439
determines; provided, that, if ~~any such~~ the examiner or assistant 5440
is in the ~~official~~ service of the state or any political 5441
subdivision of the state, it shall be a part of the examiner's or 5442
assistant's official duties to render ~~such~~ those services in 5443
connection with ~~such~~ an examination without extra compensation. 5444

(B)(1) Each state agency and each state-supported college ~~and~~ 5445
or university shall pay the cost of the services and facilities 5446
furnished to it by the department of administrative services that 5447
are necessary to provide and maintain payroll services as 5448
prescribed in section 125.21 of the Revised Code and state merit 5449
standards as prescribed in sections 124.01 to 124.64 of the 5450
Revised Code for the agency, or state-supported college, or 5451
university. If a municipal corporation chooses to use the services 5452
and facilities furnished by the department that are necessary to 5453
provide and maintain the standards so prescribed, the municipal 5454
corporation shall pay the cost of the services and facilities that 5455
the department furnishes to it. ~~Such~~ 5456

Subject to division (B)(2) of this section, the charges 5457
against a state agency, a state-supported college or university, 5458
or a municipal corporation shall be computed on a reasonable cost 5459
basis in accordance with procedures prescribed by the director of 5460
budget and management. ~~Any~~ 5461

(2) The department shall biennially report to the governor, 5462
the speaker of the house of representatives, and the president of 5463

the senate regarding the components of the formula that the 5464
department uses to determine the amounts it charges each state 5465
agency and state-supported college or university under division 5466
(B)(1) of this section. The formula shall require that the charges 5467
that a state agency or a state-supported college or university 5468
must pay shall decrease as the percentage of the employees of that 5469
state agency or state-supported college or university who are in 5470
the unclassified civil services increases. Before calculating and 5471
assessing the amount of the charges that a state agency in which 5472
all of the employees are in the unclassified civil service must 5473
pay, the department shall negotiate the amount with that state 5474
agency. 5475

(3) Any moneys the department of administrative services 5476
receives from any such a state agency, a state-supported college, 5477
or university, or a municipal corporation which under this 5478
division that are in excess of the amount necessary to pay the 5479
cost of furnishing such the department's services and facilities 5480
during any fiscal year shall be either refunded to or credited for 5481
the ensuing fiscal year to the state agency, the state-supported 5482
college, or university, or the municipal corporation that 5483
contributed the excess moneys. 5484

(C) The director of administrative services may enter into an 5485
agreement with any municipal corporation or other political 5486
subdivision to furnish services and facilities of the department 5487
of administrative services in the administration of its a merit 5488
program or other functions related to human resources. Such The 5489
agreement shall provide that the department shall be reimbursed 5490
for the reasonable costs of such those services and facilities as 5491
determined by the director. 5492

(D) All moneys received by the department of administrative 5493
services as reimbursement for payroll and, merit program, or other 5494
human resources services performed and facilities furnished under 5495

this section shall be paid into the state treasury to the credit 5496
of the human resources services fund, which is hereby created. 5497

(E) In counties of the state in which are located cities 5498
having municipal civil service commissions, the director of 5499
administrative services may designate the municipal civil service 5500
commission of the largest city within ~~such~~ the county as the 5501
director's agent for the purpose of carrying out ~~such~~ the 5502
provisions of sections 124.01 to 124.64 of the Revised Code, 5503
within ~~such counties~~ the county, ~~as that~~ the director designates. 5504
Each municipal civil service commission designated as an agent of 5505
the director shall render to the director, at the end of each 5506
month, ~~render~~ an itemized statement ~~to the director~~ of the cost 5507
incurred by ~~such~~ the commission for work done as the agent of the 5508
director, and the director ~~shall~~, after approving ~~such~~ that 5509
statement, shall pay the total amount of it to the treasurer of 5510
~~such~~ the municipal corporation in the same manner as other 5511
expenses of the department of administrative services. 5512

(F) The director, of administrative services and the 5513
examiners, inspectors, clerks, and assistants referred to in this 5514
section shall receive, in addition to their salaries, ~~receive~~ 5515
reimbursement for ~~such~~ necessary traveling and other expenses ~~as~~ 5516
~~are~~ incurred in the actual discharge of their official duties. The 5517
director may also incur the necessary expenses for stationery, 5518
printing, and other supplies incident to the business of the 5519
department ~~of administrative services~~. 5520

Sec. 124.321. (A) Whenever it becomes necessary for an 5521
appointing authority to reduce its work force, the appointing 5522
authority shall lay off employees or abolish their positions in 5523
accordance with sections 124.321 to 124.327 of the Revised Code 5524
and the rules of the director of administrative services. 5525

(B)(1) Employees may be laid off as a result of a lack of 5526

funds within an appointing authority. For appointing authorities 5527
~~which~~ that employ persons whose salary or wage is paid by warrant 5528
of the auditor of state, the director of budget and management 5529
shall be responsible for determining whether a lack of funds 5530
exists. For ~~all other~~ appointing authorities ~~which~~ that employ 5531
persons whose salary or wage is paid other than by warrant of the 5532
auditor of state, the appointing authority ~~shall~~ itself shall 5533
determine whether a lack of funds exists and shall file a 5534
statement of rationale and supporting documentation with the 5535
director of administrative services prior to sending the layoff 5536
notice. 5537

A (2) As used in this division, a "lack of funds" means an 5538
appointing authority has a current or projected deficiency of 5539
funding to maintain current, or to sustain projected, levels of 5540
staffing and operations. This section does not require any 5541
transfer of money between funds in order to offset a deficiency or 5542
projected deficiency of federal funding for a program. 5543

(3) The director of budget and management shall ~~promulgate~~ 5544
adopt rules, under Chapter 119. of the Revised Code, for agencies 5545
whose employees are paid by warrant of the auditor of state, for 5546
determining whether a lack of funds exists. 5547

(C)(1) Employees may be laid off as a result of lack of work 5548
within an appointing authority. For appointing authorities whose 5549
employees are paid by warrant of the auditor of state, the 5550
director of administrative services shall determine whether a lack 5551
of work exists. All other appointing authorities shall themselves 5552
determine whether a lack of work exists and shall file a statement 5553
of rationale and supporting documentation with the director of 5554
administrative services prior to sending the layoff notice ~~of~~ 5555
layoff. 5556

A (2) As used in this division, a "lack of work, ~~for purposes~~ 5557
of layoff," means an appointing authority has a current or 5558

projected temporary decrease in the workload, expected to last 5559
less than one year, ~~which~~ that requires a reduction of current or 5560
projected staffing levels. The determination of a lack of work 5561
shall indicate the current or projected temporary decrease in the 5562
workload of an appointing authority and whether the current or 5563
projected staffing levels of the appointing authority will be 5564
excessive. 5565

(D)(1) Employees may be laid off as a result of abolishment 5566
of positions. ~~Abolishment~~ As used in this division, "abolishment" 5567
means the ~~permanent~~ deletion of a position or positions from the 5568
organization or structure of an appointing authority ~~due to lack~~ 5569
~~of continued need for the position. An~~ 5570

For purposes of this division, an appointing authority may 5571
abolish positions for any one or any combination of the following 5572
reasons: as a result of a reorganization for the efficient 5573
operation of the appointing authority, for reasons of economy, or 5574
for lack of work. ~~The determination of the need to abolish~~ 5575
~~positions shall indicate the lack of continued need for positions~~ 5576
~~within an appointing authority~~ 5577

(2)(a) Reasons of economy permitting an appointing authority 5578
to abolish a position and to lay off the holder of that position 5579
under this division shall be determined at the time the appointing 5580
authority proposes to abolish the position. The reasons of economy 5581
shall be based on the appointing authority's estimated amount of 5582
savings with respect to salary, benefits, and other matters 5583
associated with the abolishment of the position, except that the 5584
reasons of economy associated with the position's abolishment 5585
instead may be based on the appointing authority's estimated 5586
amount of savings with respect to salary and benefits only, if: 5587

(i) Either the appointing authority's operating appropriation 5588
has been reduced by an executive or legislative action, or the 5589
appointing authority has a current or projected deficiency in 5590

funding to maintain current or projected levels of staffing and 5591
operations; and 5592

(ii) The appointing authority files a notice of the 5593
position's abolishment with the director of administrative 5594
services within one year of the occurrence of the applicable 5595
circumstance described in division (D)(2)(a)(i) of this section. 5596

(b) The following principles apply when a circumstance 5597
described in division (D)(2)(a)(i) of this section would serve to 5598
authorize an appointing authority to abolish a position and to lay 5599
off the holder of the position under this division based on the 5600
appointing authority's estimated amount of savings with respect to 5601
salary and benefits only: 5602

(i) The position's abolishment shall be done in good faith 5603
and not as a subterfuge for discipline. 5604

(ii) If a circumstance affects a specific program only, the 5605
appointing authority only may abolish a position within that 5606
program. 5607

(iii) If a circumstance does not affect a specific program 5608
only, the appointing authority may identify a position that it 5609
considers appropriate for abolishment based on the reasons of 5610
economy. ~~Appointing authorities~~ 5611

(3) Each appointing authority shall ~~themselves~~ determine 5612
itself whether any position should be abolished and shall file a 5613
statement of rationale and supporting documentation with the 5614
director of administrative services prior to sending the notice of 5615
abolishment. ~~If~~ 5616

If an abolishment results in a reduction of the work force, 5617
the appointing authority shall follow the procedures for laying 5618
off employees, subject to the following modifications: 5619

~~(1)~~(a) The employee whose position has been abolished shall 5620

have the right to fill an available vacancy within the employee's classification~~+~~. 5621
5622

~~(2)~~(b) If the employee whose position has been abolished has 5623
more retention points than any other employee serving in the same 5624
classification, ~~then~~ the employee with the fewest retention points 5625
shall be displaced~~+~~. 5626

~~(3)~~(c) If the employee whose position has been abolished has 5627
the fewest retention points in the classification, the employee 5628
shall have the right to fill an available vacancy in a lower 5629
classification in the classification series~~+~~. 5630

~~(4)~~(d) If the employee whose position has been abolished has 5631
the fewest retention points in the classification, the employee 5632
shall displace the employee with the fewest retention points in 5633
the next or successively lower classification in the 5634
classification series. 5635

(E) The director of administrative services shall ~~promulgate~~ 5636
adopt rules~~+~~ under Chapter 119. of the Revised Code~~+~~ for the 5637
determination of lack of work within an appointing authority, for 5638
the abolishment of positions by an appointing authority, and for 5639
the implementation of this section. 5640

Sec. 124.328. A classified employee may appeal a layoff, or a 5641
displacement ~~which~~ that is the result of a layoff, to the state 5642
personnel board of review. The appeal shall be filed or 5643
~~post-marked~~ postmarked no later than ten days after receipt of the 5644
layoff notice ~~of layoff~~ or after the date the employee is 5645
displaced. In cases involving the laying off of classified 5646
employees~~+~~ the affected employee or appointing authority may 5647
appeal the decision of the state personnel board of review to the 5648
court of common pleas court. ~~The appeal from the state personnel~~ 5649
~~board of review shall be made~~ in accordance with section 119.12 of 5650
the Revised Code. 5651

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 5652
125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the 5653
Revised Code shall be construed as limiting the attorney general, 5654
auditor of state, secretary of state, or treasurer of state in any 5655
of the following: 5656

(A) Purchases for less than the dollar amounts for the 5657
purchase of supplies or services determined pursuant to division 5658
(D) of section 125.05 of the Revised Code; 5659

(B) Purchases that equal or exceed the dollar amounts for the 5660
purchase of supplies or services determined pursuant to division 5661
(D) of section 125.05 of the Revised Code with the approval of the 5662
controlling board, if that approval is required by section 127.16 5663
of the Revised Code; 5664

(C) The final determination of the nature or quantity making 5665
any purchase of supplies or services to be purchased pursuant to 5666
section 125.06 of the Revised Code; 5667

(D) The final determination and disposal of excess and 5668
surplus supplies; 5669

(E) The inventory of state property; 5670

(F) The purchase of printing; 5671

(G) ~~The~~ Activities related to information technology 5672
development and use; 5673

(H) The fleet management program. 5674

Sec. 125.05. Except as provided in division (E) of this 5675
section, no state agency shall purchase any supplies or services 5676
except as provided in divisions (A) to (C) of this section. 5677

(A) Subject to division (D) of this section, a state agency 5678
may, without competitive selection, make any purchase of services 5679

that cost fifty thousand dollars or less or any purchase of 5680
supplies that cost twenty-five thousand dollars or less. The 5681
agency may make the purchase directly or may make the purchase 5682
from or through the department of administrative services, 5683
whichever the agency determines. The department shall establish 5684
written procedures to assist state agencies when they make direct 5685
purchases. If the agency makes the purchase directly, it shall 5686
make the purchase by a term contract whenever possible. 5687

(B) Subject to division (D) of this section, a state agency 5688
wanting to purchase services that cost more than fifty thousand 5689
dollars or supplies that cost more than twenty-five thousand 5690
dollars shall, unless otherwise authorized by law, make the 5691
purchase from or through the department. The department shall make 5692
the purchase by competitive selection under section 125.07 of the 5693
Revised Code. If the director of administrative services 5694
determines that it is not possible or not advantageous to the 5695
state for the department to make the purchase, the department 5696
shall grant the agency a release and permit under section 125.06 5697
of the Revised Code to make the purchase. Section 127.16 of the 5698
Revised Code does not apply to purchases the department makes 5699
under this section. 5700

(C) An agency that has been granted a release and permit to 5701
make a purchase may make the purchase without competitive 5702
selection if after making the purchase the cumulative purchase 5703
threshold as computed under division (F) of section 127.16 of the 5704
Revised Code would: 5705

(1) Be exceeded and the controlling board approves the 5706
purchase; 5707

(2) Not be exceeded and the department of administrative 5708
services approves the purchase. 5709

(D) Not later than January 31, 1997, the amounts specified in 5710

divisions (A) and (B) of this section and, not later than the 5711
thirty-first day of January of each second year thereafter, any 5712
amounts computed by adjustments made under this division, shall be 5713
increased or decreased by the average percentage increase or 5714
decrease in the consumer price index prepared by the United States 5715
bureau of labor statistics (U.S. City Average for Urban Wage 5716
Earners and Clerical Workers: "All Items 1982-1984=100") for the 5717
twenty-four calendar month period prior to the immediately 5718
preceding first day of January over the immediately preceding 5719
twenty-four calendar month period, as reported by the bureau. The 5720
director of administrative services shall make this determination 5721
and adjust the appropriate amounts accordingly. 5722

(E) If the eTech Ohio ~~SchoolNet~~ commission, the department of 5723
education, or the Ohio education computer network determines that 5724
it can purchase software services or supplies for specified school 5725
districts at a price less than the price for which the districts 5726
could purchase the same software services or supplies for 5727
themselves, the ~~office~~ commission, department, or network shall 5728
certify that fact to the department of administrative services 5729
and, acting as an agent for the specified school districts, shall 5730
make that purchase without following the provisions in divisions 5731
(A) to (D) of this section. 5732

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised 5733
Code, the department of administrative services may prescribe ~~such~~ 5734
the conditions under which competitive sealed bids will be 5735
received and the terms of the proposed purchase as it considers 5736
necessary; provided, that all ~~such of the~~ conditions and terms 5737
shall be reasonable and shall not unreasonably restrict 5738
competition, and that bidders may bid upon all or any item of the 5739
supplies or services listed in ~~such~~ the notice. Those bidders 5740
claiming the preference for United States and Ohio products 5741

outlined in this chapter shall designate in their bids either that 5742
the product to be supplied is an Ohio product or that, under the 5743
rules established by the director of administrative services, they 5744
qualify as having a significant Ohio economic presence. 5745

(B) The department of administrative services may require 5746
that each bidder provide sufficient information about the energy 5747
efficiency or energy usage of the bidder's product or service. 5748

(C) The director of administrative services ~~shall~~, by rule 5749
adopted pursuant to Chapter 119. of the Revised Code, shall 5750
prescribe criteria and procedures for use by all state agencies in 5751
giving preference to United States and Ohio products as required 5752
by division (B) of section 125.11 of the Revised Code. The rules 5753
shall extend to the following: 5754

(1) Criteria for determining that a product is produced or 5755
mined in the United States rather than in another country or 5756
territory; 5757

(2) Criteria for determining that a product is produced or 5758
mined in ~~Ohio~~ this state; 5759

(3) Information to be submitted by bidders as to the nature 5760
of a product and the location where it is produced or mined; 5761

(4)(a) Criteria and procedures to be used by the director to 5762
qualify bidders located in states bordering ~~Ohio~~ this state who 5763
might otherwise be excluded from being awarded a contract by 5764
operation of this section and section 125.11 of the Revised Code. 5765
The criteria and procedures shall recognize the level and 5766
regularity of interstate commerce between ~~Ohio~~ this state and the 5767
border states and, except as provided in divisions (C)(4)(b) and 5768
(c) of this section, provide that the non-Ohio businesses may 5769
qualify for the award of a contract as long as they are located in 5770
a state that imposes no greater restrictions than are contained in 5771
this section and section 125.11 of the Revised Code upon persons 5772

located in ~~Ohio~~ this state who are selling products or services to 5773
agencies of that state. ~~The~~ 5774

(b) The criteria and procedures shall ~~also~~ provide that, in 5775
the case of a contract for state printing, a non-Ohio business 5776
shall not bid on a contract for state printing in this state if 5777
the business is located in a state that excludes Ohio businesses 5778
from bidding on state printing contracts in that state. 5779

(c) The criteria and procedures shall provide that, in the 5780
case of a contract for furniture, preference shall be given to 5781
bidders whose furniture is produced in this state, but that 5782
bidders whose furniture is produced in states bordering this state 5783
may qualify for the award of a contract if compliance with this 5784
requirement would result in the state agency involved paying an 5785
excessive price for the furniture or acquiring disproportionately 5786
inferior furniture. 5787

(5) Criteria and procedures to be used to qualify bidders 5788
whose manufactured products, except for mined products, are 5789
produced in other states or in North America, but the bidders have 5790
a significant Ohio economic presence in terms of the number of 5791
employees or capital investment a bidder has in this state. 5792
Bidders with a significant Ohio economic presence shall qualify 5793
for award of a contract on the same basis as if their products 5794
were produced in this state. 5795

(6) Criteria and procedures for the director to grant waivers 5796
of the requirements of division (B) of section 125.11 of the 5797
Revised Code on a contract-by-contract basis ~~where~~ if compliance 5798
with those requirements would result in the state agency involved 5799
paying an excessive price for the product or acquiring a 5800
disproportionately inferior product; 5801

(7) ~~Such other~~ Other requirements or procedures reasonably 5802
necessary to implement the system of preferences established 5803

pursuant to division (B) of section 125.11 of the Revised Code. 5804

(D) In adopting the rules required under ~~this~~ division (C) of 5805
this section, the director ~~shall~~ of administrative services, to 5806
the maximum extent possible, shall conform to the requirements of 5807
the federal "Buy America Act," 47 Stat. 1520, (1933), 41 U.S.C.A. 5808
10a-10d, as amended, and to the regulations adopted ~~thereunder~~ 5809
under that act. 5810

Sec. 125.11. (A) Subject to division (B) of this section, 5811
contracts awarded pursuant to a reverse auction under section 5812
125.072 of the Revised Code or pursuant to competitive sealed 5813
bidding, including contracts awarded under section 125.081 of the 5814
Revised Code, shall be awarded to the lowest responsive and 5815
responsible bidder on each item in accordance with section 9.312 5816
of the Revised Code. When the contract is for meat products as 5817
defined in section 918.01 of the Revised Code or poultry products 5818
as defined in section 918.21 of the Revised Code, only those bids 5819
received from vendors offering products from establishments on the 5820
current list of meat and poultry vendors established and 5821
maintained by the director of administrative services under 5822
section 125.17 of the Revised Code shall be eligible for 5823
acceptance. The department of administrative services may accept 5824
or reject any or all bids in whole or by items, except that when 5825
the contract is for services or products available from a 5826
qualified nonprofit agency pursuant to sections 125.60 to 125.6012 5827
or 4115.31 to 4115.35 of the Revised Code, the contract shall be 5828
awarded to that agency. 5829

(B) Prior to awarding a contract under division (A) of this 5830
section, the department of administrative services or the state 5831
agency responsible for evaluating a contract for the purchase of 5832
products shall evaluate the bids received according to the 5833
criteria and procedures established pursuant to divisions (C)(1) 5834

and (2) of section 125.09 of the Revised Code for determining if a
product is produced or mined in the United States and if a product
is produced or mined in this state. The department or other state
agency shall first remove bids that offer products that have not
been or that will not be produced or mined in the United States.
From among the remaining bids, the department or other state
agency shall select the lowest responsive and responsible bid, in
accordance with section 9.312 of the Revised Code, from among the
bids that offer products that have been produced or mined in this
state where sufficient competition can be generated within this
state to ensure that compliance with these requirements will not
result in an excessive price for the product or acquiring a
disproportionately inferior product. If there are two or more
qualified bids that offer products that have been produced or
mined in this state, it shall be deemed that there is sufficient
competition to prevent an excessive price for the product or the
acquiring of a disproportionately inferior product.

(C) Division (B) of this section applies to contracts for
which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the
purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in
the form of a model act for use by counties, townships, municipal
corporations, or any other political subdivision described in
division (B) of section 125.04 of the Revised Code, a system of
preferences for products mined and produced in this state and in
the United States and for Ohio-based contractors. The model act
shall reflect substantial equivalence to the system of preferences
in purchasing and public improvement contracting procedures under
which the state operates pursuant to this chapter and section
153.012 of the Revised Code. To the maximum extent possible,
consistent with the Ohio system of preferences in purchasing and

public improvement contracting procedures, the model act shall 5867
incorporate all of the requirements of the federal "Buy America 5868
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and 5869
the rules adopted under that act. 5870

Before and during the development and promulgation of the 5871
model act, the director shall consult with appropriate statewide 5872
organizations representing counties, townships, and municipal 5873
corporations so as to identify the special requirements and 5874
concerns these political subdivisions have in their purchasing and 5875
public improvement contracting procedures. The director shall 5876
promulgate the model act by rule adopted pursuant to Chapter 119. 5877
of the Revised Code and shall revise the act as necessary to 5878
reflect changes in this chapter or section 153.012 of the Revised 5879
Code. 5880

The director shall make available copies of the model act, 5881
supporting information, and technical assistance to any township, 5882
county, or municipal corporation wishing to incorporate the 5883
provisions of the act into its purchasing or public improvement 5884
contracting procedure. 5885

Sec. 125.18. (A) There is hereby established the office of 5886
information technology in the department of administrative 5887
services. The office shall be under the supervision of a chief 5888
information officer to be appointed by the governor and subject to 5889
removal at the pleasure of the governor. The chief information 5890
officer shall serve as the director of the office. 5891

(B) The director of the office of information technology 5892
shall advise the governor regarding the superintendence and 5893
implementation of statewide information technology policy. 5894

(C) The director of the office of information technology 5895
shall lead, oversee, and direct state agency activities related to 5896

information technology development and use. In that regard, the 5897
director shall do all of the following: 5898

(1) Coordinate and superintend statewide efforts to promote 5899
common use and development of technology by multiple state 5900
agencies. The office of information technology relatedly shall 5901
establish policies and standards that govern and direct state 5902
agency participation in statewide programs and initiatives. 5903

(2) Establish policies and standards for the acquisition and 5904
use of information technology by state agencies, including, but 5905
not limited to, hardware, software, technology services, and 5906
security, with which state agencies shall comply; 5907

(3) Establish criteria and review processes to identify state 5908
agency information technology projects that require alignment or 5909
oversight. As appropriate, the office of information technology 5910
shall provide the governor and the director of budget and 5911
management with notice and advice regarding the appropriate 5912
allocation of resources for those projects. The director of the 5913
office of information technology may require state agencies to 5914
provide, and may prescribe the form and manner by which they must 5915
provide, information to fulfill the director's alignment and 5916
oversight role. 5917

(D) The office of information technology may make contracts 5918
for, operate, and superintend technology services for state 5919
agencies in accordance with this chapter. 5920

(E) The office of information technology may establish 5921
cooperative agreements with federal and local government agencies 5922
and state agencies that are not under the authority of the 5923
governor for the provision of technology services and the 5924
development of technology projects. 5925

(F) As used in this section, "state agency" means every 5926
organized body, office, or agency established by the laws of the 5927

state for the exercise of any function of state government, other 5928
than any state-supported institution of higher education, the 5929
office of the auditor of state, treasurer of state, secretary of 5930
state, or attorney general, the public employees retirement 5931
system, the Ohio police and fire pension fund, the state teachers 5932
retirement system, the school employees retirement system, the 5933
state highway patrol retirement system, the general assembly or 5934
any legislative agency, or the courts or any judicial agency. 5935

Sec. 125.25. (A) The director of administrative services may 5936
debar a vendor from consideration for contract awards upon a 5937
finding based upon a reasonable belief that the vendor has done 5938
any of the following: 5939

(1) Abused the selection process by repeatedly withdrawing 5940
bids or proposals before purchase orders or contracts are issued 5941
or failing to accept orders based upon firm bids; 5942

(2) Failed to substantially perform a contract according to 5943
its terms, conditions, and specifications within specified time 5944
limits; 5945

(3) Failed to cooperate in monitoring contract performance by 5946
refusing to provide information or documents required in a 5947
contract, failed to respond to complaints to the vendor, or 5948
accumulated repeated justified complaints regarding performance of 5949
a contract; 5950

(4) Attempted to influence a public employee to breach 5951
ethical conduct standards or to influence a contract award; 5952

(5) Colluded to restrain competition by any means; 5953

(6) Been convicted of a criminal offense related to the 5954
application for or performance of any public or private contract, 5955
including, but not limited to, embezzlement, theft, forgery, 5956
bribery, falsification or destruction of records, receiving stolen 5957

property, and any other offense that directly reflects on the 5958
vendor's business integrity; 5959

(7) Been convicted under state or federal antitrust laws; 5960

(8) Deliberately or willfully submitted false or misleading 5961
information in connection with the application for or performance 5962
of a public contract; 5963

(9) Violated any other responsible business practice or 5964
performed in an unsatisfactory manner as determined by the 5965
director; 5966

(10) Through the default of a contract or through other means 5967
had a determination of unresolved finding for recovery by the 5968
auditor of state under section 9.24 of the Revised Code; 5969

(11) Acted in such a manner as to be debarred from 5970
participating in a contract with any governmental agency. 5971

(B) When the director reasonably believes that grounds for 5972
debarment exist, the director shall send the vendor a notice of 5973
proposed debarment indicating the grounds for the proposed 5974
debarment and the procedure for requesting a hearing on the 5975
proposed debarment. The hearing shall be conducted in accordance 5976
with Chapter 119. of the Revised Code. If the vendor does not 5977
respond with a request for a hearing in the manner specified in 5978
Chapter 119. of the Revised Code, the director shall issue the 5979
debarment decision without a hearing and shall notify the vendor 5980
of the decision by certified mail, return receipt requested. 5981

(C) The director shall determine the length of the debarment 5982
period and may rescind the debarment at any time upon notification 5983
to the vendor. During the period of debarment, the vendor is not 5984
eligible to participate in any state contract. After the debarment 5985
period expires, the vendor shall be eligible to be awarded 5986
contracts by state agencies. (D) The director, through the office 5987

of information technology and the office of procurement services, 5988
shall maintain a list of all vendors currently debarred under this 5989
section. 5990

Sec. 125.60. As used in sections 125.60 to 125.6012 of the 5991
Revised Code: 5992

(A) "Community rehabilitation program" means an agency that: 5993

(1) Is organized under the laws of the United States or this 5994
state such that no part of its net income inures to the benefit of 5995
any shareholder or other individual; 5996

(2) Is certified as a sheltered workshop, if applicable, by 5997
the wage and hour division of the United States department of 5998
labor; 5999

(3) Is registered and in good standing with the secretary of 6000
state as a domestic nonprofit or not-for-profit corporation; 6001

(4) Complies with applicable occupational health and safety 6002
standards required by the laws of the United States or of this 6003
state; 6004

(5) Operates in the interest of persons with work-limiting 6005
disabilities, provides vocational or other employment-related 6006
training to persons with work-limiting disabilities, and employs 6007
persons with work-limiting disabilities in the manufacture of 6008
products or the provision of services; 6009

(6) Is a nonprofit corporation for federal tax purposes. 6010

(B) "Government ordering office" means any of the following: 6011

(1) Any state agency, including the general assembly, the 6012
supreme court, and the office of a state elected official, or any 6013
state authority, board, bureau, commission, institution, or 6014
instrumentality that is funded in total or in part by state money; 6015

(2) A county, township, or village. 6016

(C) "Person with a work-limiting disability" means an individual who has a disability as defined in the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101, and who:

(1) Because of that disability is substantially limited in the type or quantity of work the individual can perform or is prevented from working regularly;

(2) Meets criteria established by the office of procurement from community rehabilitation programs.

Sec. 125.601. (A) Not later than July 1, 2007, the director of administrative services shall establish the office of procurement from community rehabilitation programs within the department of administrative services. The director shall designate an employee of the department to serve as administrator of the office.

(B) Not later than July 1, 2007, the director shall abolish the state committee for the purchase of products and services provided by persons with severe disabilities in accordance with section 4115.36 of the Revised Code.

Sec. 125.602. (A) The department of mental retardation and developmental disabilities, the department of mental health, the department of job and family services, the rehabilitation services commission, and any other state or governmental agency or community rehabilitation program responsible for the provision of rehabilitation and vocational educational services to persons with work-limiting disabilities may, through written agreement, cooperate in providing resources to the department of administrative services for the operation of the office of procurement from community rehabilitation programs. These resources may include, but are not limited to, leadership and

assistance in dealing with the societal aspects of meeting the 6047
needs of persons with work-limiting disabilities. 6048

(B) The office and all governmental entities that administer 6049
socioeconomic programs may enter into contractual agreements, 6050
cooperative working relationships, or other arrangements that are 6051
necessary for effective coordination and realization of the 6052
objectives of these entities. 6053

Sec. 125.603. (A) The office of procurement from community 6054
rehabilitation programs shall do the following in addition to 6055
other duties specified in sections 125.60 to 125.6012 of the 6056
Revised Code: 6057

(1) Establish, maintain, and periodically update a 6058
procurement list of approved supplies and services available from 6059
qualified nonprofit agencies; 6060

(2) Monitor the procurement practices of government ordering 6061
offices to ensure compliance with sections 125.60 to 125.6012 of 6062
the Revised Code; 6063

(3) In cooperation with qualified nonprofit agencies, 6064
government ordering offices, the department of mental retardation 6065
and developmental disabilities, the department of mental health, 6066
the department of job and family services, and the rehabilitation 6067
services commission, develop and recommend to the director of 6068
administrative services rules the director shall adopt in 6069
accordance with Chapter 119. of the Revised Code for the effective 6070
and efficient administration of sections 125.60 to 125.6012 of the 6071
Revised Code; 6072

(4) Prepare a report of its activities by the last day of 6073
December of each year. The report shall be posted electronically 6074
on the office's web site. 6075

(B) The office of procurement from community rehabilitation 6076

programs may enter into contractual agreements and establish pilot 6077
programs to further the objectives of sections 125.60 to 125.6012 6078
of the Revised Code. 6079

Sec. 125.604. A community rehabilitation program may apply to 6080
the office of procurement from community rehabilitation programs 6081
to be certified as qualified to provide its supplies and services 6082
for procurement by government ordering offices. The office shall 6083
prescribe the form of the application. If the office is satisfied 6084
the program is qualified, it shall certify the program as a 6085
qualified nonprofit agency for the purposes of sections 125.60 to 6086
125.6012 of the Revised Code. 6087

Sec. 125.605. The office of procurement from community 6088
rehabilitation programs may certify any entity to serve as an 6089
authorized agent of a qualified nonprofit agency for the purposes 6090
of sections 125.60 to 125.6012 of the Revised Code. The office 6091
shall prescribe procedures under which an entity can apply and be 6092
considered for such certification. An authorized agent may do any 6093
of the following: 6094

(A) Contract with the office of procurement from community 6095
rehabilitation programs to provide centralized business 6096
facilitation or other assistance to qualified nonprofit agencies. 6097
The office shall consult with qualified nonprofit agencies before 6098
agreeing to such a contract. 6099

(B) Act as a distributor of supplies and services registered 6100
on the procurement list maintained by the office under section 6101
125.603 of the Revised Code; 6102

(C) Provide marketing, administrative, and other services 6103
related to sales. 6104

Sec. 125.606. Prior to purchases by government ordering 6105

offices, the office of procurement from community rehabilitation 6106
programs shall attempt to establish for each item on the 6107
procurement list a fair market price that is representative of the 6108
range of prices that a government ordering office would expect to 6109
pay to purchase the item in the marketplace. When establishing a 6110
fair market price for an item, the office of procurement from 6111
community rehabilitation programs shall consider the costs of 6112
doing business with respect to that item, including sales, 6113
marketing, and research and development costs and agent fees. If 6114
the office of procurement from community rehabilitation programs 6115
cannot establish a fair market price for a particular supply or 6116
service, the government ordering office shall attempt to establish 6117
the fair market price pursuant to division (B) of section 125.607 6118
of the Revised Code for each purchase of such supply or service. 6119

Sec. 125.607. (A) Before purchasing any supply or service, a 6120
governmental ordering office shall determine whether the supply or 6121
service is on the procurement list maintained by the office of 6122
procurement from community rehabilitation programs. If the supply 6123
or service is on the list at an established fair market price, the 6124
government ordering office shall purchase it from the qualified 6125
nonprofit agency or approved agent at that price. 6126

(B) If the supply or service is on the procurement list but a 6127
fair market price has not been established, the government 6128
ordering office shall attempt to negotiate an agreement with one 6129
or more of the listed qualified nonprofit agencies or approved 6130
agents. The office of procurement from community rehabilitation 6131
programs may accept as fair market price an agreement negotiated 6132
between the government ordering office and a qualified nonprofit 6133
agency or approved agent. 6134

(C) If an agreement is not successfully negotiated, the 6135
office may establish a fair market price, or it may release a 6136

government ordering office from the requirements of this section. 6137

(D) A purchase under divisions (A) to (C) of this section is 6138
not subject to any competitive selection or competitive bidding 6139
requirements, notwithstanding any other provision of law. 6140

(E) The department of administrative services has the 6141
authority to structure or regulate competition among qualified 6142
nonprofit agencies for the overall benefit of the program. 6143

Sec. 125.608. All government ordering offices purchasing 6144
supplies and services from qualified non-profit agencies or their 6145
approved agents shall reimburse the department of administrative 6146
services a reasonable sum to cover the department's costs of 6147
administering sections 125.60 to 125.6012 of the Revised Code. The 6148
department may bill administrative costs to government ordering 6149
offices directly, or allow qualified non-profit agencies or 6150
approved agents to collect and remit department administrative 6151
fees, at the department's discretion. Any department 6152
administrative fees collected and remitted by qualified non-profit 6153
agencies or their approved agents shall be considered allowable 6154
expenses in addition to the fair market price approved under 6155
section 125.606 or 125.607 of the Revised Code. The money so paid 6156
shall be deposited in the state treasury to the credit of the 6157
general services fund created under section 125.15 of the Revised 6158
Code. 6159

Sec. 125.609. The office of procurement from community 6160
rehabilitation programs, on its own or pursuant to a request from 6161
a government ordering office, may release a government ordering 6162
office from compliance with sections 125.60 to 125.6012 of the 6163
Revised Code. If the office determines that compliance is not 6164
possible or not advantageous, or if conditions prescribed in rules 6165
as may be adopted under section 125.603 of the Revised Code for 6166

granting a release are met, the office may grant a release. The 6167
release shall be in writing, and shall specify the supplies or 6168
services to which it applies, the period of time during which it 6169
is effective, and the reason for which it is granted. 6170

Sec. 125.6010. Section 125.607 of the Revised Code does not 6171
apply to the purchase of a product or service available from a 6172
state agency, state instrumentality, or political subdivision 6173
under any law in effect on July 1, 2005. 6174

Sec. 125.6011. (A) Nothing in sections 125.60 to 125.6012 of 6175
the Revised Code shall be construed to prohibit the purchase of a 6176
supply or service from a qualified nonprofit agency by a political 6177
subdivision that is not a government ordering office. 6178

(B) Purchases made under this section by a political 6179
subdivision, as defined in section 125.04 of the Revised Code, are 6180
exempt from any competitive selection procedures otherwise 6181
required by law. Purchases under this section shall be made from 6182
qualified non-profit agencies or their approved agents. 6183

(C) A political subdivision, as defined in section 125.04 of 6184
the Revised Code, may not purchase under division (C) of that 6185
section a supply or service on the procurement list established 6186
under section 125.603 of the Revised Code. 6187

Sec. 125.6012. A government ordering office and qualified 6188
nonprofit agency shall provide the necessary information and 6189
documentation requested by the office of procurement from 6190
community rehabilitation programs to enable the office to 6191
effectively administer sections 125.60 to 125.6012 of the Revised 6192
Code. 6193

Sec. 125.831. As used in sections 125.831 to 125.833 of the 6194

Revised Code: 6195

(A) "Law enforcement officer" means an officer, agent, or 6196
employee of a state agency upon whom, by statute, a duty to 6197
conserve the peace or to enforce all or certain laws is imposed 6198
and the authority to arrest violators is conferred, within the 6199
limits of that statutory duty and authority, but does not include 6200
such an officer, agent, or employee if that duty and authority is 6201
location specific. 6202

(B)(1) "Motor vehicle" means any automobile, car minivan, 6203
cargo van, passenger van, sport utility vehicle, or pickup truck 6204
with a gross vehicle weight of under twelve thousand pounds. 6205

(2) "Motor vehicle" does not include, except for the purposes 6206
of division (C) of section 125.832 of the Revised Code, any 6207
vehicle described in division (B)(1) of this section that is used 6208
by a law enforcement officer and law enforcement agency or any 6209
vehicle that is so described and that is equipped with specialized 6210
equipment that is not normally found in such a vehicle and that is 6211
used to carry out a state agency's specific and specialized duties 6212
and responsibilities. 6213

(C) "Specialized equipment" does not include standard mobile 6214
radios with no capabilities other than voice communication, 6215
exterior and interior lights, or roof-mounted caution lights. 6216

(D) "State agency" means every organized body, office, board, 6217
authority, commission, or agency established by the laws of the 6218
state for the exercise of any governmental or quasi-governmental 6219
function of state government regardless of the funding source for 6220
that entity, other than any ~~state-supported~~ state institution of 6221
higher education, the office of the governor, lieutenant governor, 6222
auditor of state, treasurer of state, secretary of state, or 6223
attorney general, the general assembly or any legislative agency, 6224
~~or~~ the courts or any judicial agency, the state highway patrol, or 6225

any state retirement system or retirement program established by 6226
or referenced in the Revised Code. 6227

(E) "State institution of higher education" has the same 6228
meaning as in section 3345.011 of the Revised Code. 6229

Sec. 125.832. (A) The department of administrative services 6230
is granted exclusive authority over the acquisition and management 6231
of all motor vehicles used by state agencies. In carrying out this 6232
authority, the department shall do both of the following: 6233

(1) Approve the purchase or lease of each motor vehicle for 6234
use by a state agency. The department shall decide if a motor 6235
vehicle shall be leased or purchased for that use. 6236

Except as otherwise provided in division (A)(1) of this 6237
section, on and after July 1, 2005, each state agency shall 6238
acquire all passenger motor vehicles under the department's master 6239
leasing program. If the department determines that acquisition 6240
under that program is not the most economical method and if the 6241
department and the state agency acquiring the passenger motor 6242
vehicle can provide economic justification for doing so, the 6243
department may approve the purchase, rather than the lease, of a 6244
passenger motor vehicle for the acquiring state agency. 6245

(2) Direct and approve all funds that are expended for the 6246
purchase, lease, repair, maintenance, registration, insuring, and 6247
other costs related to the possession and operation of motor 6248
vehicles for the use of state agencies. 6249

(B) The director of administrative services shall establish 6250
and operate a fleet management program. The director shall operate 6251
the program for purposes including, but not limited to, 6252
cost-effective acquisition, maintenance, management, analysis, and 6253
disposal of all motor vehicles owned or leased by the state. All 6254
state agencies shall comply with statewide fleet management 6255

policies and procedures established by the director for the 6256
program, including, but not limited to, motor vehicle assignments, 6257
additions of motor vehicles to fleets or motor vehicle 6258
replacements, motor vehicle fueling, and motor vehicle repairs. 6259

(C) The director shall establish and maintain a fleet 6260
reporting system and shall require state agencies to submit to the 6261
department information relative to state motor vehicles, including 6262
motor vehicles described in division (B)(2) of section 125.831 of 6263
the Revised Code, to be used in operating the fleet management 6264
program. State agencies shall provide to the department fleet data 6265
and other information, including, but not limited to, mileage and 6266
costs. The data and other information shall be submitted in 6267
formats and in a manner determined by the department. 6268

(D) All state agency purchases or leases of motor vehicles 6269
are subject to the prior approval of the director under division 6270
(A)(1) of this section. 6271

(E) State agencies that utilize state motor vehicles or pay 6272
mileage reimbursements to employees shall provide a fleet plan to 6273
the department as directed by the department. 6274

(F)(1) The fleets of state agencies that consist of one 6275
hundred or less vehicles on July 1, 2004, shall be managed by the 6276
department's fleet management program on a time schedule 6277
determined by the department, unless the state agency has received 6278
delegated authority as described in division (G) of this section. 6279

(2) The fleets of state agencies that consist of greater than 6280
one hundred motor vehicles, but less than five hundred motor 6281
vehicles, on July 1, 2005, also shall be managed by the 6282
department's fleet management program on a time schedule 6283
determined by the department, unless the state agency has received 6284
delegated authority as described in division (G) of this section. 6285

(G)(1) The department may delegate any or all of its duties 6286

regarding fleet management to a state agency, if the state agency 6287
demonstrates to the satisfaction of the department both of the 6288
following: 6289

(a) Capabilities to institute and manage a fleet management 6290
program, including, but not limited to, the presence of a 6291
certified fleet manager; 6292

(b) Fleet management performance, as demonstrated by fleet 6293
data and other information submitted pursuant to annual reporting 6294
requirements and any other criteria the department considers 6295
necessary in evaluating the performance. 6296

(2) The department may determine that a state agency is not 6297
in compliance with this section and direct that the agency's fleet 6298
management duties be transferred to the department. 6299

(H) The proceeds derived from the disposition of any motor 6300
vehicles under this section shall be paid to whichever of the 6301
following applies: 6302

(1) The fund that originally provided moneys for the purchase 6303
or lease of the motor vehicles; 6304

(2) If the motor vehicles were originally purchased with 6305
moneys derived from the general revenue fund, the proceeds shall 6306
be deposited, in the director's discretion, into the state 6307
treasury ~~for~~ to the credit to of either the fleet management fund 6308
created by section 125.83 of the Revised Code or the investment 6309
recovery fund created by section 125.14 of the Revised Code. 6310

(I)(1) The department shall create and maintain a certified 6311
fleet manager program. 6312

(2) State agencies that have received delegated authority as 6313
described in division (G) of this section shall have a certified 6314
fleet manager. 6315

(J) The department annually shall prepare and submit a 6316

statewide fleet report to the governor, the speaker of the house
of representatives, and the president of the senate. The report
shall be submitted not later than the thirty-first day of January
following the end of each fiscal year. It may include, but is not
limited to, the numbers and types of motor vehicles, their
mileage, miles per gallon, and cost per mile, mileage
reimbursements, accident and insurance data, and information
regarding compliance by state agencies having delegated authority
under division (G) of this section with applicable fleet
management requirements.

(K) The director shall adopt rules for implementing the fleet
management program that are consistent with recognized best
practices. The program shall be supported by reasonable fee
charges for the services provided. The director shall collect
these fees and deposit them into the state treasury to the credit
for the fleet management fund created by section 125.83 of the
Revised Code. The setting and collection of fees under this
division is not subject to any restriction imposed by law upon the
director's or the department's authority to set or collect fees.

(L) The director also shall adopt rules that prohibit, except
in very limited circumstances, the exclusive assignment of
state-owned, leased, or pooled motor vehicles to state employees
and that prohibit the reimbursement under section 126.31 of the
Revised Code of state employees who use their own motor vehicles
for any mileage they incur above an amount that the department
shall determine annually unless reimbursement for the excess
mileage is approved by the department in accordance with standards
for that approval the director shall establish in those rules.
~~Beginning on the effective date of this section September 26,~~
2003, no such state-owned, leased, or pooled motor vehicle shall
be personally assigned as any form of compensation or benefit of
state employment, and no ~~such~~ state-owned, leased, or pooled motor

vehicle shall be assigned to an employee solely for commuting to 6349
and from home and work. 6350

(M) The director shall do both of the following: 6351

(1) Implement to the greatest extent possible the 6352
recommendations from the 2002 report entitled "Administrative 6353
Analysis of the Ohio Fleet Management Program" in connection with 6354
the authority granted to the department by this section; 6355

(2) Attempt to reduce the number of passenger vehicles used 6356
by state agencies during the fiscal years ending on June 30, 2004, 6357
and June 30, 2005. 6358

(N) Each state agency shall reimburse the department for all 6359
costs incurred in the assignment of motor vehicles to the state 6360
agency. 6361

(O) The director shall do all of the following in managing 6362
the fleet management program: 6363

(1) Determine how motor vehicles will be maintained, insured, 6364
operated, financed, and licensed; 6365

(2) Pursuant to the formula in division (O)(3) of this 6366
section, annually establish the minimum number of business miles 6367
per year an employee of a state agency must drive in order to 6368
qualify for approval by the department to receive a motor vehicle 6369
for business use; 6370

(3) Establish the minimum number of business miles per year 6371
at an amount that results when the annual motor vehicle cost is 6372
divided by the amount that is the reimbursement rate per mile 6373
minus the amount that is the sum of the fuel cost, the operating 6374
cost, and the insurance cost. As used in this division: 6375

(a) "Annual motor vehicle cost" means the price of a motor 6376
vehicle divided by the number of years an average motor vehicle is 6377
used. 6378

(b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle. 6379
6380
6381

(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. 6382
6383
6384

(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. 6385
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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. 6389
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(P) Each state institution of higher education shall do all of the following relating to motor vehicles that the institution acquires and manages: 6393
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(1) Use the department's vehicle fleet management software system to track the motor vehicles; 6396
6397

(2) Use the department's fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles; 6398
6399

(3) Make bulk fuel purchases for the motor vehicles under the department's contract for those purchases. 6400
6401

Sec. 126.25. The accounting and budgeting services provided by the director of budget and management shall be supported by user charges. The director shall determine a rate that is sufficient to defray the expense of those services and the manner by which those charges shall be collected. All money collected from user charges shall be deposited in the state treasury to the credit of the ~~state~~ accounting and budgeting fund, which is hereby 6402
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created. Rebates or revenue shares received from any state payment 6409
card program established under division (B) of section 126.21 of 6410
the Revised Code and miscellaneous payments that reimburse 6411
expenses paid from the ~~state~~ accounting and budgeting fund may be 6412
deposited into the ~~state~~ accounting and budgeting fund and used to 6413
support accounting and budgeting services. 6414

Sec. 127.16. (A) Upon the request of either a state agency or 6415
the director of budget and management and after the controlling 6416
board determines that an emergency or a sufficient economic reason 6417
exists, the controlling board may approve the making of a purchase 6418
without competitive selection as provided in division (B) of this 6419
section. 6420

(B) Except as otherwise provided in this section, no state 6421
agency, using money that has been appropriated to it directly, 6422
shall: 6423

(1) Make any purchase from a particular supplier, that would 6424
amount to fifty thousand dollars or more when combined with both 6425
the amount of all disbursements to the supplier during the fiscal 6426
year for purchases made by the agency and the amount of all 6427
outstanding encumbrances for purchases made by the agency from the 6428
supplier, unless the purchase is made by competitive selection or 6429
with the approval of the controlling board; 6430

(2) Lease real estate from a particular supplier, if the 6431
lease would amount to seventy-five thousand dollars or more when 6432
combined with both the amount of all disbursements to the supplier 6433
during the fiscal year for real estate leases made by the agency 6434
and the amount of all outstanding encumbrances for real estate 6435
leases made by the agency from the supplier, unless the lease is 6436
made by competitive selection or with the approval of the 6437
controlling board. 6438

(C) Any person who authorizes a purchase in violation of 6439

division (B) of this section shall be liable to the state for any 6440
state funds spent on the purchase, and the attorney general shall 6441
collect the amount from the person. 6442

(D) Nothing in division (B) of this section shall be 6443
construed as: 6444

(1) A limitation upon the authority of the director of 6445
transportation as granted in sections 5501.17, 5517.02, and 6446
5525.14 of the Revised Code; 6447

(2) Applying to medicaid provider agreements under Chapter 6448
5111. of the Revised Code ~~or payments or provider agreements under~~ 6449
~~the disability medical assistance program established under~~ 6450
~~Chapter 5115. of the Revised Code;~~ 6451

(3) Applying to the purchase of examinations from a sole 6452
supplier by a state licensing board under Title XLVII of the 6453
Revised Code; 6454

(4) Applying to entertainment contracts for the Ohio state 6455
fair entered into by the Ohio expositions commission, provided 6456
that the controlling board has given its approval to the 6457
commission to enter into such contracts and has approved a total 6458
budget amount for such contracts as agreed upon by commission 6459
action, and that the commission causes to be kept itemized records 6460
of the amounts of money spent under each contract and annually 6461
files those records with the clerk of the house of representatives 6462
and the clerk of the senate following the close of the fair; 6463

(5) Limiting the authority of the chief of the division of 6464
mineral resources management to contract for reclamation work with 6465
an operator mining adjacent land as provided in section 1513.27 of 6466
the Revised Code; 6467

(6) Applying to investment transactions and procedures of any 6468
state agency, except that the agency shall file with the board the 6469

name of any person with whom the agency contracts to make, broker, 6470
service, or otherwise manage its investments, as well as the 6471
commission, rate, or schedule of charges of such person with 6472
respect to any investment transactions to be undertaken on behalf 6473
of the agency. The filing shall be in a form and at such times as 6474
the board considers appropriate. 6475

(7) Applying to purchases made with money for the per cent 6476
for arts program established by section 3379.10 of the Revised 6477
Code; 6478

(8) Applying to purchases made by the rehabilitation services 6479
commission of services, or supplies, that are provided to persons 6480
with disabilities, or to purchases made by the commission in 6481
connection with the eligibility determinations it makes for 6482
applicants of programs administered by the social security 6483
administration; 6484

(9) Applying to payments by the department of job and family 6485
services under section 5111.13 of the Revised Code for group 6486
health plan premiums, deductibles, coinsurance, and other 6487
cost-sharing expenses; 6488

(10) Applying to any agency of the legislative branch of the 6489
state government; 6490

(11) Applying to agreements or contracts entered into under 6491
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 6492
Revised Code; 6493

(12) Applying to purchases of services by the adult parole 6494
authority under section 2967.14 of the Revised Code or by the 6495
department of youth services under section 5139.08 of the Revised 6496
Code; 6497

(13) Applying to dues or fees paid for membership in an 6498
organization or association; 6499

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	6500 6501
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	6502 6503 6504 6505
(16) Applying to purchases of tickets for passenger air transportation;	6506 6507
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	6508 6509 6510
(18) Applying to the judicial branch of state government;	6511
(19) Applying to purchases of liquor for resale by the division of liquor control;	6512 6513
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	6514 6515 6516
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	6517 6518 6519 6520
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	6521 6522 6523
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	6524 6525
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	6526 6527 6528 6529

(25) Applying to purchases from a qualified nonprofit agency 6530
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of 6531
the Revised Code; 6532

(26) Applying to payments by the department of job and family 6533
services to the United States department of health and human 6534
services for printing and mailing notices pertaining to the tax 6535
refund offset program of the internal revenue service of the 6536
United States department of the treasury; 6537

(27) Applying to contracts entered into by the department of 6538
mental retardation and developmental disabilities under sections 6539
5123.18, 5123.182, and 5123.199 of the Revised Code; 6540

(28) Applying to payments made by the department of mental 6541
health under a physician recruitment program authorized by section 6542
5119.101 of the Revised Code; 6543

(29) Applying to contracts entered into with persons by the 6544
director of commerce for unclaimed funds collection and remittance 6545
efforts as provided in division (F) of section 169.03 of the 6546
Revised Code. The director shall keep an itemized accounting of 6547
unclaimed funds collected by those persons and amounts paid to 6548
them for their services. 6549

(30) Applying to purchases made by a state institution of 6550
higher education in accordance with the terms of a contract 6551
between the vendor and an inter-university purchasing group 6552
comprised of purchasing officers of state institutions of higher 6553
education; 6554

(31) Applying to the department of job and family services' 6555
purchases of health assistance services under the children's 6556
health insurance program part I provided for under section 5101.50 6557
of the Revised Code or the children's health insurance program 6558
part II provided for under section 5101.51 of the Revised Code; 6559

(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 correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 131.02. (A) Whenever any amount is payable to the state, 6590
the officer, employee, or agent responsible for administering the 6591
law under which the amount is payable shall immediately proceed to 6592
collect the amount or cause the amount to be collected and shall 6593
pay the amount into the state treasury or into the appropriate 6594
custodial fund in the manner set forth pursuant to section 113.08 6595
of the Revised Code. ~~If~~ Except as otherwise provided in this 6596
division, if the amount is not paid within forty-five days after 6597
payment is due, the officer, employee, or agent shall certify the 6598
amount due to the attorney general, in the form and manner 6599
prescribed by the attorney general, and notify the director of 6600
budget and management thereof. In the case of an amount payable by 6601
a student enrolled in a state institution of higher education, the 6602
amount shall be certified within the later of forty-five days 6603
after the amount is due or the tenth day after the beginning of 6604
the next academic semester, quarter, or other session following 6605
the session for which the payment is payable. The attorney general 6606
may assess the collection cost to the amount certified in such 6607
manner and amount as prescribed by the attorney general. 6608

For the purposes of this section, a payment is due at the 6609
time provided in divisions (A)(1) to (9) of this section. If more 6610
than one division applies to a payment, the payment is due at the 6611
earliest of the applicable times. 6612

(1) If a law, including an administrative rule, of this state 6613
prescribes the time a payment is required to be made or reported, 6614
when the payment is required by that law to be paid or reported. 6615

(2) If the payment is for services rendered, when the 6616
rendering of the services is completed. 6617

(3) If the payment is reimbursement for a loss, when the loss 6618
is incurred. 6619

(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed. 6620
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(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued. 6623
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(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered. 6626
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(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined. 6628
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(8) Upon proof of claim being filed in a bankruptcy case. 6631

(9) Any other appropriate time determined by the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed. 6632
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(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness. 6637
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(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., or 5747. of the Revised Code, the notice also shall specify all of the following: 6640
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(a) The assessment or case number; 6643

(b) The tax pursuant to which the assessment is made; 6644

(c) The reason for the liability, including, if applicable, that a penalty or interest is due; 6645
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(d) An explanation of how and when interest will be added to the amount assessed; 6647
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(e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.

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

(D) Each claim shall bear interest, from the day on which the claim became due, at the rate per annum required by section 5703.47 of the Revised Code.

(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:

(1) Compromise the claim;

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

(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.

(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:

(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;

(b) Cancel the claim or cause it to be cancelled.

(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.

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

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

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

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(1) The total bonded indebtedness;

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

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

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

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(5) The total of any other indebtedness; 6709

(6) The net amount of delinquent taxes unpledged to pay any 6710
bonds, notes, or certificates, including delinquent assessments on 6711
improvements on which the bonds have been paid; 6712

(7) The budget requirements for the fiscal year for bond and 6713
note retirement; 6714

(8) The estimated revenue for the fiscal year. 6715

(C) The certificate and statement provided for in divisions 6716
(A) and (B) of this section shall be forwarded to the tax 6717
commissioner together with a request for authority to issue bonds 6718
of such subdivision in an amount not to exceed seventy per cent of 6719
the net unobligated delinquent taxes and assessments due and owing 6720
to such subdivision, as set forth in division (B)(6) of this 6721
section. 6722

(D) No subdivision may issue bonds under this section in 6723
excess of a sufficient amount to pay the indebtedness of the 6724
subdivision as shown by division (B)(2) of this section and, 6725
except in the case of school districts, to provide funds for 6726
disability financial assistance ~~and disability medical assistance,~~ 6727
as shown by division (B)(3) of this section. 6728

(E) The tax commissioner shall grant to such subdivision 6729
authority requested by such subdivision as restricted by divisions 6730
(C) and (D) of this section and shall make a record of the 6731
certificate, statement, and grant in a record book devoted solely 6732
to such recording and which shall be open to inspection by the 6733
public. 6734

(F) The commissioner shall immediately upon issuing the 6735
authority provided in division (E) of this section notify the 6736
proper authority having charge of the retirement of bonds of such 6737
subdivision by forwarding a copy of such grant of authority and of 6738

the statement provided for in division (B) of this section. 6739

(G) Upon receipt of authority, the subdivision shall proceed 6740
according to law to issue the amount of bonds authorized by the 6741
commissioner, and authorized by the taxing authority, provided the 6742
taxing authority of that subdivision may by resolution submit to 6743
the electors of that subdivision the question of issuing such 6744
bonds. Such resolution shall make the declarations and statements 6745
required by section 133.18 of the Revised Code. The county auditor 6746
and taxing authority shall thereupon proceed as set forth in 6747
divisions (C) and (D) of such section. The election on the 6748
question of issuing such bonds shall be held under divisions (E), 6749
(F), and (G) of such section, except that publication of the 6750
notice of such election shall be made on four separate days prior 6751
to such election in one or more newspapers of general circulation 6752
in the subdivisions. Such bonds may be exchanged at their face 6753
value with creditors of the subdivision in liquidating the 6754
indebtedness described and enumerated in division (B)(2) of this 6755
section or may be sold as provided in Chapter 133. of the Revised 6756
Code, and in either event shall be uncontestable. 6757

(H) The per cent of delinquent taxes and assessments 6758
collected for and to the credit of the subdivision after the 6759
exchange or sale of bonds as certified by the commissioner shall 6760
be paid to the authority having charge of the sinking fund of the 6761
subdivision, which money shall be placed in a separate fund for 6762
the purpose of retiring the bonds so issued. The proper authority 6763
of the subdivisions shall provide for the levying of a tax 6764
sufficient in amount to pay the debt charges on all such bonds 6765
issued under this section. 6766

(I) This section is for the sole purpose of assisting the 6767
various subdivisions in paying their unsecured indebtedness, and 6768
providing funds for disability financial assistance ~~and disability~~ 6769
~~medical assistance~~. The bonds issued under authority of this 6770

section shall not be used for any other purpose and any exchange 6771
for other purposes, or the use of the money derived from the sale 6772
of such bonds by the subdivision for any other purpose, is 6773
misapplication of funds. 6774

(J) The bonds authorized by this section shall be redeemable 6775
or payable in not to exceed ten years from date of issue and shall 6776
not be subject to or considered in calculating the net 6777
indebtedness of the subdivision. The budget commission of the 6778
county in which the subdivision is located shall annually allocate 6779
such portion of the then delinquent levy due such subdivision 6780
which is unpledged for other purposes to the payment of debt 6781
charges on the bonds issued under authority of this section. 6782

(K) The issue of bonds under this section shall be governed 6783
by Chapter 133. of the Revised Code, respecting the terms used, 6784
forms, manner of sale, and redemption except as otherwise provided 6785
in this section. 6786

The board of county commissioners of any county may issue 6787
bonds authorized by this section and distribute the proceeds of 6788
such bond issues to any or all of the cities and townships of such 6789
counties, according to their relative needs for disability 6790
financial assistance ~~and disability medical assistance~~ as 6791
determined by such county. 6792

All sections of the Revised Code inconsistent with or 6793
prohibiting the exercise of the authority conferred by this 6794
section are inoperative respecting bonds issued under this 6795
section. 6796

Sec. 131.51. In any civil action that is brought before any 6797
court of competent jurisdiction and in which the state is a party, 6798
prior to entering into a consent agreement in which the state must 6799
perform any action that requires the expenditure of state funds, 6800
the state official who represents the state as a party in the 6801

action shall obtain the approval of the consent agreement by the 6802
controlling board. 6803

As used in this section, "state" has the same meaning as in 6804
section 2743.01 of the Revised Code. 6805

Sec. 133.09. (A) Unless it is a township that has adopted a 6806
limited home rule government under Chapter 504. of the Revised 6807
Code, a township shall not incur net indebtedness that exceeds an 6808
amount equal to five per cent of its tax valuation and, except as 6809
specifically authorized by section 505.262 of the Revised Code or 6810
other laws, shall not incur any net indebtedness unless authorized 6811
by vote of the electors. 6812

(B) A township that has adopted a limited home rule 6813
government under Chapter 504. of the Revised Code shall not incur 6814
net indebtedness that exceeds an amount equal to ten and one-half 6815
per cent of its tax valuation, or incur without a vote of the 6816
electors net indebtedness that exceeds an amount equal to five and 6817
one-half per cent of that tax valuation. In calculating the net 6818
indebtedness of a township that has adopted a limited home rule 6819
government, none of the following securities shall be considered: 6820

(1) Self-supporting securities issued for any purpose; 6821

(2) Securities issued for the purpose of purchasing, 6822
constructing, improving, or extending water or sanitary or surface 6823
and storm water sewerage systems or facilities, or a combination 6824
of those systems or facilities, to the extent that an agreement 6825
entered into with another subdivision requires the other 6826
subdivision to pay to the township amounts equivalent to debt 6827
charges on the securities; 6828

(3) Securities that are not general obligations of the 6829
township; 6830

(4) Voted securities issued for the purposes of redevelopment 6831
to the extent that their principal amount does not exceed an 6832
amount equal to two per cent of the tax valuation of the township; 6833

(5) Securities issued for the purpose of acquiring or 6834
constructing roads, highways, bridges, or viaducts, or for the 6835
purpose of acquiring or making other highway permanent 6836
improvements, to the extent that the resolution of the board of 6837
township trustees authorizing the issuance of the securities 6838
includes a covenant to appropriate from money distributed to the 6839
township under Chapter 4501., 4503., 4504., or 5735. of the 6840
Revised Code a sufficient amount to cover debt charges on and 6841
financing costs relating to the securities as they become due; 6842

(6) Securities issued for energy conservation measures under 6843
section 505.264 of the Revised Code. 6844

(C) In calculating the net indebtedness of any township, no 6845
obligation incurred under division (B) of section 513.17 or under 6846
section 505.261, 505.264, 505.265, 505.267, or 505.37 of the 6847
Revised Code, or in connection with a project undertaken pursuant 6848
to section 5540.032 of the Revised Code, shall be considered. 6849

Sec. 140.01. As used in this chapter: 6850

(A) "Hospital agency" means any public hospital agency or any 6851
nonprofit hospital agency. 6852

(B) "Public hospital agency" means any county, board of 6853
county hospital trustees established pursuant to section 339.02 of 6854
the Revised Code, county hospital commission established pursuant 6855
to section 339.14 of the Revised Code, municipal corporation, new 6856
community authority organized under Chapter 349. of the Revised 6857
Code, joint township hospital district, state or municipal 6858
university or college operating or authorized to operate a 6859
hospital facility, or the state. 6860

(C) "Nonprofit hospital agency" means a corporation or 6861
association not for profit, no part of the net earnings of which 6862
inures or may lawfully inure to the benefit of any private 6863
shareholder or individual, that has authority to own or operate a 6864
hospital facility or provides or is to provide services to one or 6865
more other hospital agencies. 6866

(D) "Governing body" means, in the case of a county, the 6867
board of county commissioners or other legislative body; in the 6868
case of a board of county hospital trustees, the board; in the 6869
case of a county hospital commission, the commission; in the case 6870
of a municipal corporation, the council or other legislative 6871
authority; in the case of a new community authority, its board of 6872
trustees; in the case of a joint township hospital district, the 6873
joint township district hospital board; in the case of a state or 6874
municipal university or college, its board of trustees or board of 6875
directors; in the case of a nonprofit hospital agency, the board 6876
of trustees or other body having general management of the agency; 6877
and, in the case of the state, the director of development or the 6878
Ohio higher educational facility commission. 6879

(E) "Hospital facilities" means buildings, structures and 6880
other improvements, additions thereto and extensions thereof, 6881
furnishings, equipment, and real estate and interests in real 6882
estate, used or to be used for or in connection with one or more 6883
hospitals, emergency, intensive, intermediate, extended, 6884
long-term, or self-care facilities, diagnostic and treatment and 6885
out-patient facilities, facilities related to programs for home 6886
health services, clinics, laboratories, public health centers, 6887
research facilities, and rehabilitation facilities, for or 6888
pertaining to diagnosis, treatment, care, or rehabilitation of 6889
sick, ill, injured, infirm, impaired, disabled, or handicapped 6890
persons, or the prevention, detection, and control of disease, and 6891
also includes education, training, and food service facilities for 6892

health professions personnel, housing facilities for such 6893
personnel and their families, and parking and service facilities 6894
in connection with any of the foregoing; and includes any one, 6895
part of, or any combination of the foregoing; and further includes 6896
site improvements, utilities, machinery, facilities, furnishings, 6897
and any separate or connected buildings, structures, improvements, 6898
sites, utilities, facilities, or equipment to be used in, or in 6899
connection with the operation or maintenance of, or supplementing 6900
or otherwise related to the services or facilities to be provided 6901
by, any one or more of such hospital facilities. 6902

(F) "Costs of hospital facilities" means the costs of 6903
acquiring hospital facilities or interests in hospital facilities, 6904
including membership interests in nonprofit hospital agencies, 6905
costs of constructing hospital facilities, costs of improving one 6906
or more hospital facilities, including reconstructing, 6907
rehabilitating, remodeling, renovating, and enlarging, costs of 6908
equipping and furnishing such facilities, and all financing costs 6909
pertaining thereto, including, without limitation thereto, costs 6910
of engineering, architectural, and other professional services, 6911
designs, plans, specifications and surveys, and estimates of cost, 6912
costs of tests and inspections, the costs of any indemnity or 6913
surety bonds and premiums on insurance, all related direct or 6914
allocable administrative expenses pertaining thereto, fees and 6915
expenses of trustees, depositories, and paying agents for the 6916
obligations, cost of issuance of the obligations and financing 6917
charges and fees and expenses of financial advisors, attorneys, 6918
accountants, consultants and rating services in connection 6919
therewith, capitalized interest on the obligations, amounts 6920
necessary to establish reserves as required by the bond 6921
proceedings, the reimbursement of all moneys advanced or applied 6922
by the hospital agency or others or borrowed from others for the 6923
payment of any item or items of costs of such facilities, and all 6924

other expenses necessary or incident to planning or determining 6925
feasibility or practicability with respect to such facilities, and 6926
such other expenses as may be necessary or incident to the 6927
acquisition, construction, reconstruction, rehabilitation, 6928
remodeling, renovation, enlargement, improvement, equipment, and 6929
furnishing of such facilities, the financing thereof, and the 6930
placing of the same in use and operation, including any one, part 6931
of, or combination of such classes of costs and expenses, and 6932
means the costs of refinancing obligations issued by, or 6933
reimbursement of money advanced by, nonprofit hospital agencies or 6934
others the proceeds of which were used for the payment of costs of 6935
hospital facilities, if the governing body of the public hospital 6936
agency determines that the refinancing or reimbursement advances 6937
the purposes of this chapter, whether or not the refinancing or 6938
reimbursement is in conjunction with the acquisition or 6939
construction of additional hospital facilities. 6940

(G) "Hospital receipts" means all moneys received by or on 6941
behalf of a hospital agency from or in connection with the 6942
ownership, operation, acquisition, construction, improvement, 6943
equipping, or financing of any hospital facilities, including, 6944
without limitation thereto, any rentals and other moneys received 6945
from the lease, sale, or other disposition of hospital facilities, 6946
and any gifts, grants, interest subsidies, or other moneys 6947
received under any federal program for assistance in financing the 6948
costs of hospital facilities, and any other gifts, grants, and 6949
donations, and receipts therefrom, available for financing the 6950
costs of hospital facilities. 6951

(H) "Obligations" means bonds, notes, or other evidences of 6952
indebtedness or obligation, including interest coupons pertaining 6953
thereto, issued or issuable by a public hospital agency to pay 6954
costs of hospital facilities. 6955

(I) "Bond service charges" means principal, interest, and 6956

call premium, if any, required to be paid on obligations. 6957

(J) "Bond proceedings" means one or more ordinances, 6958
resolutions, trust agreements, indentures, and other agreements or 6959
documents, and amendments and supplements to the foregoing, or any 6960
combination thereof, authorizing or providing for the terms, 6961
including any variable interest rates, and conditions applicable 6962
to, or providing for the security of, obligations and the 6963
provisions contained in such obligations. 6964

(K) "Nursing home" has the same meaning as in division (A)(1) 6965
of section 5701.13 of the Revised Code. 6966

(L) "Residential care facility" has the same meaning as in 6967
division (A)(2) of section 5701.13 of the Revised Code. 6968

(M) "Adult care facility" has the same meaning as in division 6969
(A)(3) of section 5701.13 of the Revised Code. 6970

(N) "Independent living facility" means any self-care 6971
facility or other housing facility designed or used as a residence 6972
for elderly persons. An "independent living facility" does not 6973
include a residential facility, or that part of a residential 6974
facility, that is any of the following: 6975

(1) A hospital required to be certified by section 3727.02 of 6976
the Revised Code; 6977

(2) A nursing home or residential care facility; 6978

(3) An adult care facility; 6979

(4) A hospice licensed under section 3712.04 of the Revised 6980
Code; 6981

(5) ~~A habilitation center as defined in section 5123.041 of~~ 6982
~~the Revised Code;~~ 6983

~~(6)~~ A residential facility for the mentally ill licensed by 6984
the department of mental health under section 5119.22 of the 6985

Revised Code;	6986
(7) (6) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	6987 6988
(8) (7) A facility certified as an alcohol and drug addiction program under section 3793.06 of the Revised Code;	6989 6990
(9) (8) A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;	6991 6992 6993 6994 6995
(10) (9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.	6996 6997 6998
Sec. 140.08. (A) Except as otherwise provided in divisions <u>division</u> (B) (1) and (2) of this section, all hospital facilities purchased, acquired, constructed, or owned by a public hospital agency, or financed in whole or in part by obligations issued by a public hospital agency, and used, or to be used when completed, as hospital facilities, and the income therefrom, are exempt from all taxation within this state, including ad valorem and excise taxes, notwithstanding any other provisions of law, and hospital agencies are exempt from taxes levied under Chapters 5739. and 5741. of the Revised Code. The obligations issued hereafter under section 133.08, 140.06, or 339.15 of the Revised Code or Section 3 of Article XVIII, Ohio Constitution, to pay costs of hospital facilities or to refund such obligations, and the transfer thereof, and the interest and other income from such obligations, including any profit made on the sale thereof, is free from taxation within the state.	6999 7000 7001 7002 7003 7004 7005 7006 7007 7008 7009 7010 7011 7012 7013 7014
(B)(1) Division (A) of this section does not exempt	7015

independent living facilities from taxes levied on property or 7016
taxes levied under Chapters 5739. and 5741. of the Revised Code. 7017
If an independent living facility or part of such facility becomes 7018
an adult care facility, nursing home, or residential care facility 7019
on or after January 10, 1991, that part of the independent living 7020
facility that is an adult care facility, nursing home, or 7021
residential care facility is exempt from taxation subject to 7022
division (B)(2) of this section on and after the date it becomes 7023
an adult care facility, nursing home, or residential care 7024
facility. 7025

(2) Division (A) of this section exempts nursing homes, 7026
residential care facilities, and adult care facilities from taxes 7027
levied on property and taxes levied under Chapters 5739. and 5741. 7028
of the Revised Code only until all obligations issued to finance 7029
such homes or facilities, or all refunding or series of refundings 7030
of those obligations, are redeemed or otherwise retired. 7031

(3) Nothing in division (A) of this section exempts any 7032
person subject to this section from the tax levied by Chapter 7033
5751. of the Revised Code, but the tax shall be based solely on 7034
those gross receipts that contribute to such person's unrelated 7035
business taxable income under the Internal Revenue Code of 1986, 7036
100 Stat. 2085, 26 U.S.C. 1, as amended. 7037

Sec. 141.011. Beginning in calendar year 2001, the annual 7038
salaries of the elective officers of the state shall be as follows 7039
rather than as prescribed by divisions (A) to (F) of section 7040
141.01 of the Revised Code: 7041

(A)(1) In calendar year 2001 the annual salary of the 7042
governor shall be one hundred twenty-six thousand four hundred 7043
ninety-seven dollars. 7044

(2) In calendar years 2002 through 2006 the annual salary of 7045

the governor shall be one hundred thirty thousand two hundred
ninety-two dollars.

(3) In calendar year 2007 the annual salary of the governor
shall be the annual salary in 2006 increased by each of the
following percentages in succession:

(a) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2001, to
September 30, 2002, rounded to the nearest one-tenth of one per
cent;

(b) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2002, to
September 30, 2003, rounded to the nearest one-tenth of one per
cent;

(c) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2003, to
September 30, 2004, rounded to the nearest one-tenth of one per
cent;

(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;

(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.

(4) In calendar year 2008 and thereafter, the annual salary
of the governor shall be the annual salary in 2007 increased by
the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price

index from October 1, 2006, to September 30, 2007, rounded to the
nearest one-tenth of one per cent. 7076
7077

(B)(1) In calendar year 2001 the annual salary of the
lieutenant governor shall be sixty-six thousand three hundred six
dollars. 7078
7079
7080

(2) In calendar years 2002 through 2006 the annual salary of
the lieutenant governor shall be sixty-eight thousand two hundred
ninety-five dollars. 7081
7082
7083

(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: 7084
7085
7086

(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; 7087
7088
7089
7090

(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; 7091
7092
7093
7094

(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; 7095
7096
7097
7098

(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; 7099
7100
7101
7102

(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
7103
7104
7105

cent. 7106

(4) In calendar year 2008 and thereafter, the annual salary 7107
of the lieutenant governor shall be the annual salary in 2007 7108
increased by the lesser of the following: 7109

(a) Three per cent; 7110

(b) The percentage increase, if any, in the consumer price 7111
index from October 1, 2006 to September 30, 2007, rounded to the 7112
nearest one-tenth of one per cent. 7113

If the governor appoints the lieutenant governor as an 7114
administrative department head ~~or as the director of the office of~~ 7115
~~criminal justice services under section 108.05 of the Revised~~ 7116
~~Code,~~ the lieutenant governor may accept the salary for that 7117
office while serving as its head in lieu of the salary for the 7118
office of lieutenant governor. 7119

(C)(1) In calendar year 2001 the annual salary of the 7120
secretary of state, auditor of state, treasurer of state, and 7121
attorney general shall be ninety-three thousand four hundred 7122
forty-seven dollars. 7123

(2) In calendar year 2002 the annual salary of the secretary 7124
of state, auditor of state, treasurer of state, and attorney 7125
general shall be ninety-six thousand two hundred fifty dollars. 7126

(3) In each calendar year from 2003 through 2008, the annual 7127
salary of the secretary of state, auditor of state, treasurer of 7128
state, and attorney general shall be increased by the lesser of 7129
the following: 7130

(a) Three per cent; 7131

(b) The percentage increase, if any, in the consumer price 7132
index over the twelve-month period that ends on the thirtieth day 7133
of September of the immediately preceding year, rounded to the 7134
nearest one-tenth of one per cent. 7135

(D) Upon the death of an elected executive officer of the state listed in divisions (A) to (F) of section 141.01 of the Revised Code during that person's term of office, an amount shall 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. 7165

(3) For the judges of the courts of appeals, the following 7166
amounts effective in the following years: 7167

(a) Beginning January 1, 2000, one hundred nine thousand two 7168
hundred fifty dollars; 7169

(b) Beginning January 1, 2001, one hundred twelve thousand 7170
five hundred fifty dollars; 7171

(c) After 2001, the amount determined under division (E)(1) 7172
of this section. 7173

(4) For the judges of the courts of common pleas, the 7174
following amounts effective in the following years: 7175

(a) Beginning January 1, 2000, one hundred thousand five 7176
hundred dollars, reduced by an amount equal to the annual 7177
compensation paid to that judge from the county treasury pursuant 7178
to section 141.05 of the Revised Code; 7179

(b) Beginning January 1, 2001, one hundred three thousand 7180
five hundred dollars, reduced by an amount equal to the annual 7181
compensation paid to that judge from the county treasury pursuant 7182
to section 141.05 of the Revised Code; 7183

(c) After 2001, the aggregate annual salary amount determined 7184
under division (E)(2) of this section reduced by an amount equal 7185
to the annual compensation paid to that judge from the county 7186
treasury pursuant to section 141.05 of the Revised Code. 7187

(5) For the full-time judges of a municipal court or the 7188
part-time judges of a municipal court of a territory having a 7189
population of more than fifty thousand, the following amounts 7190
effective in the following years, which amounts shall be in 7191
addition to all amounts received pursuant to divisions (B)(1)(a) 7192
and (2) of section 1901.11 of the Revised Code from municipal 7193
corporations and counties: 7194

(a) Beginning January 1, 2000, thirty-two thousand six hundred fifty dollars;	7195 7196
(b) Beginning January 1, 2001, thirty-five thousand five hundred dollars;	7197 7198
(c) After 2001, the amount determined under division (E)(3) of this section.	7199 7200
(6) For judges of a municipal court designated as part-time judges by section 1901.08 of the Revised Code, other than part-time judges to whom division (A)(5) of this section applies, and for judges of a county court, the following amounts effective in the following years, which amounts shall be in addition to any amounts received pursuant to division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or pursuant to division (A) of section 1907.16 of the Revised Code from counties:	7201 7202 7203 7204 7205 7206 7207 7208 7209
(a) Beginning January 1, 2000, eighteen thousand eight hundred dollars;	7210 7211
(b) Beginning January 1, 2001, twenty thousand four hundred fifty dollars;	7212 7213
(c) After 2001, the amount determined under division (E)(4) of this section.	7214 7215
(B) Except as provided in section 1901.121 of the Revised Code, except as otherwise provided in this division, and except for the compensation to which the judges described in division (A)(5) of this section are entitled pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code, the annual salary of the chief justice of the supreme court and of each justice or judge listed in division (A) of this section shall be paid in equal monthly installments from the state treasury. If the chief justice of the supreme court or any justice or judge	7216 7217 7218 7219 7220 7221 7222 7223 7224

listed in division (A)(2), (3), or (4) of this section delivers a
written request to be paid biweekly to the administrative director
of the supreme court prior to the first day of January of any
year, the annual salary of the chief justice or the justice or
judge that is listed in division (A)(2), (3), or (4) of this
section shall be paid, during the year immediately following the
year in which the request is delivered to the administrative
director of the supreme court, biweekly from the state treasury.

(C) Upon the death of the chief justice or a justice of the
supreme court during that person's term of office, an amount shall
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 chief justice or justice would have received
during the remainder of the unexpired term or an amount equal to
the salary of office for two years, whichever is less.

(D) Neither the chief justice of the supreme court nor any
justice or judge of the supreme court, the court of appeals, the
court of common pleas, or the probate court shall hold any other
office of trust or profit under the authority of this state or the
United States.

(E)(1) Each calendar year from 2002 through 2008, the annual
salaries of the chief justice of the supreme court and of the
justices and judges named in divisions (A)(2) and (3) of this
section shall be increased by an amount equal to the adjustment
percentage for that year multiplied by the compensation paid the
preceding year pursuant to division (A)(1), (2), or (3) of this
section.

(2) Each calendar year from 2002 through 2008, the aggregate
annual salary payable under division (A)(4) of this section to the
judges named in that division shall be increased by an amount
equal to the adjustment percentage for that year multiplied by the

aggregate compensation paid the preceding year pursuant to 7256
division (A)(4) of this section and section 141.05 of the Revised 7257
Code. 7258

(3) Each calendar year from 2002 through 2008, the salary 7259
payable from the state treasury under division (A)(5) of this 7260
section to the judges named in that division shall be increased by 7261
an amount equal to the adjustment percentage for that year 7262
multiplied by the aggregate compensation paid the preceding year 7263
pursuant to division (A)(5) of this section and division (B)(1)(a) 7264
of section 1901.11 of the Revised Code. 7265

(4) Each calendar year from 2002 through 2008, the salary 7266
payable from the state treasury under division (A)(6) of this 7267
section to the judges named in that division shall be increased by 7268
an amount equal to the adjustment percentage for that year 7269
multiplied by the aggregate compensation paid the preceding year 7270
pursuant to division (A)(6) of this section and division (A) of 7271
section 1901.11 of the Revised Code from municipal corporations 7272
and counties or division (A) of section 1907.16 of the Revised 7273
Code from counties. 7274

(F) In addition to the salaries payable pursuant to this 7275
section, the chief justice of the supreme court and the justices 7276
of the supreme court shall be entitled to a vehicle allowance of 7277
five hundred dollars per month, payable from the state treasury. 7278
The allowance shall be increased on the first day of January of 7279
each odd numbered year by an amount equal to the percentage 7280
increase, if any, in the consumer price index for the immediately 7281
preceding twenty-four month period for which information is 7282
available. 7283

(G) As used in this section: 7284

(1) The "adjustment percentage" for a year is the lesser of 7285
the following: 7286

(a) Three per cent;	7287
(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.	7288 7289 7290 7291
(2) "Consumer price index" has the same meaning as in section 101.27 of the Revised Code.	7292 7293
(3) "Salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the chief justice of the supreme court or a justice or judge named in this section and paid on the chief justice's or the justice's or judge's behalf by a governmental entity.	7294 7295 7296 7297 7298 7299
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 commission, the fee of the clerk shall be as provided in division (R) of section 2303.20 of the Revised Code.	7300 7301 7302 7303 7304 7305 7306 7307 7308 7309 7310
(B) The secretary of state shall maintain a record of the commissions of each notary public appointed and commissioned by the secretary of state under this chapter and make a proper index to that record.	7311 7312 7313 7314
The governor's office shall transfer to the secretary of state's office, on or after the effective date of this amendment	7315 7316

June 6, 2001, the record of notaries public formerly kept by the 7317
governor's office under section 107.10 of the Revised Code. The 7318
secretary of state's office shall maintain that record together 7319
with the record and index of commissions of notaries public 7320
required by this division. 7321

(C) If a notary public legally changes the notary public's 7322
name or address after having been commissioned as a notary public, 7323
the notary public shall notify the secretary of state and the 7324
appropriate clerk of courts within thirty days after the name or 7325
address change. Notification to the secretary of state shall be on 7326
a form prescribed by the secretary of state. 7327

(D) A notary, other than an attorney, who resigns the 7328
person's commission shall deliver to the secretary of state, on a 7329
form prescribed by the secretary of state, a written notice 7330
indicating the effective date of resignation. 7331

Sec. 147.10. No notary public shall do or perform any act as 7332
a notary public knowing that ~~his~~ the notary public's term of 7333
office has expired or that the notary public has resigned the 7334
notary public's commission. 7335

Sec. 147.11. A person appointed notary public who performs 7336
any act as such after the expiration of ~~his~~ the person's term of 7337
office or after the person resigns the person's commission, 7338
knowing that ~~his~~ the person's term has expired or that the person 7339
has resigned, shall forfeit not more than five hundred dollars, to 7340
be recovered by an action in the name of the state. Such act shall 7341
render ~~such~~ the person ineligible for reappointment. 7342

Sec. 147.12. An official act done by a notary public after 7343
the expiration of ~~his~~ the notary public's term of office or after 7344
the notary public resigns the notary public's commission is as 7345
valid as if done during ~~his~~ the notary public's term of office. 7346

Sec. 147.371. (A) Upon receipt of a fee of two dollars and an affidavit that the original commission of a notary public has been lost or destroyed, a duplicate commission as notary public shall be issued by the secretary of state.

(B) Upon receipt of a fee of two dollars and the properly completed, prescribed form for a name and address change under division (C) of section 147.05 of the Revised Code, the secretary of state shall issue a duplicate commission as a notary public.

Sec. 149.30. The Ohio historical society, chartered by this state as a corporation not for profit to promote a knowledge of history and archaeology, especially of Ohio, and operated continuously in the public interest since 1885, may perform public functions as prescribed by law.

The general assembly may appropriate money to the Ohio historical society each biennium to carry out the public functions of the society as enumerated in this section. An appropriation by the general assembly to the society constitutes an offer to contract with the society to carry out those public functions for which appropriations are made. An acceptance by the society of the appropriated funds constitutes an acceptance by the society of the offer and is considered an agreement by the society to perform those functions in accordance with the terms of the appropriation and the law and to expend the funds only for the purposes for which appropriated. The governor may request on behalf of the society, and the controlling board may release, additional funds to the society for survey, salvage, repair, or rehabilitation of an emergency nature for which funds have not been appropriated, and acceptance by the society of those funds constitutes an agreement on the part of the society to expend those funds only for the purpose for which released by the controlling board.

The society shall faithfully expend and apply all moneys 7377
received from the state to the uses and purposes directed by law 7378
and for necessary administrative expenses. ~~The~~ If the general 7379
assembly appropriates money to the society for grants or subsidies 7380
to other entities for their site-related programs, the society, 7381
except for good cause, shall distribute the money within ninety 7382
days of accepting a grant or subsidy application for the money. 7383
The society shall not retain or charge an administrative, service, 7384
or processing fee of any kind for distributing money to those 7385
entities. 7386

The society shall perform the public function of sending 7387
notice by certified mail to the owner of any property at the time 7388
it is listed on the national register of historic places. The 7389
society shall accurately record all expenditures of such funds in 7390
conformity with generally accepted accounting principles. 7391

The auditor of state shall audit all funds and fiscal records 7392
of the society. 7393

The public functions to be performed by the Ohio historical 7394
society shall include all of the following: 7395

(A) Creating, supervising, operating, protecting, 7396
maintaining, and promoting for public use a system of state 7397
memorials, titles to which may reside wholly or in part with this 7398
state or wholly or in part with the society as provided in and in 7399
conformity to appropriate acts and resolves of the general 7400
assembly, and leasing for renewable periods of two years or less, 7401
with the advice and consent of the attorney general and the 7402
director of administrative services, lands and buildings owned by 7403
the state which are in the care, custody, and control of the 7404
society, all of which shall be maintained and kept for public use 7405
at reasonable hours; 7406

(B) Making alterations and improvements, marking, and 7407

constructing, reconstructing, protecting, or restoring structures, 7408
earthworks, and monuments in its care, and equipping such 7409
facilities with appropriate educational maintenance facilities; 7410

(C) Serving as the archives administration for the state and 7411
its political subdivisions as provided in sections 149.31 to 7412
149.42 of the Revised Code; 7413

(D) Administering a state historical museum, to be the 7414
headquarters of the society and its principal museum and library, 7415
which shall be maintained and kept for public use at reasonable 7416
hours; 7417

(E) Establishing a marking system to identify all designated 7418
historic and archaeological sites within the state and marking or 7419
causing to be marked historic sites and communities considered by 7420
the society to be historically or archaeologically significant; 7421

(F) Publishing books, pamphlets, periodicals, and other 7422
publications about history, archaeology, and natural science and 7423
offering one copy of each regular periodical issue to all public 7424
libraries in this state at a reasonable price, which shall not 7425
exceed one hundred ten per cent more than the total cost of 7426
publication; 7427

(G) Engaging in research in history, archaeology, and natural 7428
science and providing historical information upon request to all 7429
state agencies; 7430

(H) Collecting, preserving, and making available by all 7431
appropriate means and under approved safeguards all manuscript, 7432
print, or near-print library collections and all historical 7433
objects, specimens, and artifacts which pertain to the history of 7434
Ohio and its people, including the following original documents: 7435
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 7436
Ohio Constitution of 1875; design and the letters of patent and 7437
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 7438

53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883);	7439
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28	7440
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904);	7441
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition	7442
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40	7443
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933);	7444
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936);	7445
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6	7446
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48	7447
(1947);	7448
(I) Encouraging and promoting the organization and	7449
development of county and local historical societies;	7450
(J) Providing to Ohio schools such materials as the society	7451
may prepare to facilitate the instruction of Ohio history at a	7452
reasonable price, which shall not exceed one hundred ten per cent	7453
more than the total cost of preparation and delivery;	7454
(K) Providing advisory and technical assistance to local	7455
societies for the preservation and restoration of historic and	7456
archaeological sites;	7457
(L) Devising uniform criteria for the designation of historic	7458
and archaeological sites throughout the state and advising local	7459
historical societies of the criteria and their application;	7460
(M) Taking inventory, in cooperation with the Ohio arts	7461
council, the Ohio archaeological council, and the archaeological	7462
society of Ohio, of significant designated and undesignated state	7463
and local sites and keeping an active registry of all designated	7464
sites within the state;	7465
(N) Contracting with the owners or persons having an interest	7466
in designated historic or archaeological sites or property	7467
adjacent or contiguous to those sites, or acquiring, by purchase,	7468
gift, or devise, easements in those sites or in property adjacent	7469

or contiguous to those sites, in order to control or restrict the
use of those historic or archaeological sites or adjacent or
contiguous property for the purpose of restoring or preserving the
historical or archaeological significance or educational value of
those sites;

(O) Constructing a monument honoring Governor James A.
Rhodes, which shall stand on the northeast quadrant of the grounds
surrounding the capitol building. The monument shall be
constructed with private funds donated to the Ohio historical
society and designated for this purpose. No public funds shall be
expended to construct this monument. The department of
administrative services shall cooperate with the Ohio historical
society in carrying out this function and shall maintain the
monument in a manner compatible with the grounds of the capitol
building.

(P) Commissioning a portrait of each departing governor,
which shall be displayed in the capitol building. The Ohio
historical society may accept private contributions designated for
this purpose and, at the discretion of its board of trustees, also
may apply for the same purpose funds appropriated by the general
assembly to the society pursuant to this section.

(Q) Planning and developing a center at the capitol building
for the purpose of educating visitors about the history of Ohio,
including its political, economic, and social development and the
design and erection of the capitol building and its grounds. The
Ohio historical society may accept contributions of private moneys
and in-kind services designated for this purpose and may, at the
discretion of its board of trustees, also apply, for the same
purpose, personnel and other resources paid in whole or in part by
its state subsidy.

(R) Submitting an annual report of its activities, programs,

and operations to the governor within two months after the close 7501
of each fiscal year of the state. 7502

The society shall not sell, mortgage, transfer, or dispose of 7503
historical or archaeological sites to which it has title and in 7504
which the state has monetary interest except by action of the 7505
general assembly. 7506

In consideration of the public functions performed by the 7507
Ohio historical society for the state, employees of the society 7508
shall be considered public employees within the meaning of section 7509
145.01 of the Revised Code. 7510

Sec. 150.07. (A) For the purpose stated in section 150.01 of 7511
the Revised Code, the authority may authorize a lender to claim 7512
one of the tax credits allowed under section 5707.031, 5725.19, 7513
5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The 7514
credits shall be authorized by a written contract with the lender. 7515
The contract shall specify the terms under which the lender may 7516
claim the credit, including the amount of loss, if any, the lender 7517
must incur before the lender may claim the credit; specify that 7518
the credit shall not exceed the amount of the loss; and specify 7519
that the lender may claim the credit only for a loss certified by 7520
a program administrator to the authority under the procedures 7521
prescribed under division (B)(6) of section 150.05 of the Revised 7522
Code. 7523

(B) Tax credits may be authorized at any time after the 7524
authority establishes the investment policy under section 150.03 7525
of the Revised Code, but a tax credit so authorized may not be 7526
claimed until the beginning of the fifth year after the authority 7527
establishes the investment policy. A tax credit may not be claimed 7528
after June 30, 2026. 7529

(C) Upon receiving certification of a lender's loss from a 7530

program administrator pursuant to the procedures in the investment 7531
policy, the authority shall issue a tax credit certificate to the 7532
lender, except as otherwise provided in division (D) of this 7533
section. The authority shall not issue a certificate until the 7534
lender, in the manner prescribed by the authority, elects to 7535
receive a refundable or nonrefundable tax credit. The election, 7536
once made, is irrevocable. The certificate shall state the amount 7537
of the credit, whether the credit is refundable or nonrefundable, 7538
and the calendar year, under section 5707.031, 5725.19, 5727.241, 7539
or 5729.08, the tax year, under section 5733.49, or the taxable 7540
year under section 5747.80 of the Revised Code, for which the 7541
credit may be claimed. The authority, in conjunction with the tax 7542
commissioner, shall develop a system for issuing tax credit 7543
certificates for the purpose of verifying that any credit claimed 7544
is a credit issued under this section and is properly taken in the 7545
year specified in the certificate and in compliance with division 7546
(B) of this section. 7547

(D) The authority shall not, in any fiscal year, issue tax 7548
credit certificates in a total amount exceeding twenty million 7549
dollars. 7550

Sec. 150.10. (A) On the first day of January of the second 7551
year after the date of entering into an agreement under section 7552
150.05 of the Revised Code and of each ensuing year, the authority 7553
shall file with the clerk of the house of representatives, the 7554
clerk of the senate, and the chairpersons of the house and senate 7555
standing committees predominantly concerned with economic 7556
development a written report on the Ohio venture capital program. 7557
The report shall include all the following: 7558

(1) A description of the details of the investment policy 7559
established or modified in accordance with sections 150.03 and 7560
150.04 of the Revised Code; 7561

(2) The authority's assessment of the program's achievement of its purpose stated in section 150.01 of the Revised Code;	7562 7563
(3) The value of tax credit certificates issued by the authority under section 150.07 of the Revised Code in each fiscal year ending on or before the preceding thirtieth day of June;	7564 7565 7566
(4) The amount of tax credits claimed pursuant to section <u>5707.031</u> , 5725.19, <u>5727.241</u> , 5729.08, 5733.49, or 5747.80 of the Revised Code, as to the respective taxes involved;	7567 7568 7569
(5) The financial status of the Ohio venture capital fund;	7570
(6) The names of venture capital funds in which money from the program fund has been invested and the locations of their principal offices, and the names of the enterprises in which each of those venture capital funds has invested such money and the locations of those enterprises' principal offices;	7571 7572 7573 7574 7575
(7) Any recommendations for modifying the program to better achieve the purpose stated in section 150.01 of the Revised Code.	7576 7577
(B) During each year that a report is issued under division (A) of this section, the chairperson of the authority, or another member of the authority designated by the chairperson as the authority's representative, shall be required to appear in person before the standing committees of the house and senate predominantly concerned with economic development to give testimony concerning the status of the Ohio venture capital program.	7578 7579 7580 7581 7582 7583 7584 7585
<u>Sec. 153.02. (A) The director of administrative services may debar a contractor from contract awards for public improvements under this chapter upon a reasonable belief that the contractor has done any of the following:</u>	7586 7587 7588 7589
<u>(1) Failed to prosecute the work on a contract with the diligence or force specified or intended in the contract,</u>	7590 7591

<u>including failure to timely complete all items necessary for</u>	7592
<u>issuance of a certificate of contract completion;</u>	7593
<u>(2) Failed to timely pay subcontractors and material</u>	7594
<u>suppliers on a contract resulting in the filing of a lien under</u>	7595
<u>sections 1311.25 to 1311.32 of the Revised Code;</u>	7596
<u>(3) Defaulted on a contract requiring the execution of a</u>	7597
<u>takeover agreement as set forth in section 153.17 of the Revised</u>	7598
<u>Code;</u>	7599
<u>(4) Failed during the course of a contract to maintain the</u>	7600
<u>coverage required by the bureau of workers' compensation;</u>	7601
<u>(5) Failed during the course of a contract to comply with the</u>	7602
<u>terms of the contractor's drug-free workplace program as required</u>	7603
<u>by the contract;</u>	7604
<u>(6) Failed during the course of a contract to maintain</u>	7605
<u>insurance required by the contract or otherwise by law;</u>	7606
<u>(7) Through the default of a contract or through other means,</u>	7607
<u>had a determination of unresolved finding for recovery by the</u>	7608
<u>auditor of state under section 9.24 of the Revised Code;</u>	7609
<u>(8) Misrepresented the firm's qualifications in the selection</u>	7610
<u>process set forth in sections 153.65 to 153.71 of the Revised</u>	7611
<u>Code;</u>	7612
<u>(9) Attempted to influence a public employee to breach</u>	7613
<u>ethical conduct standards or to influence a contract award;</u>	7614
<u>(10) Colluded to restrain competition by any means;</u>	7615
<u>(11) Been convicted of a criminal offense related to the</u>	7616
<u>application for or performance of any public or private contract,</u>	7617
<u>including, but not limited to, embezzlement, theft, forgery,</u>	7618
<u>bribery, falsification or destruction of records, receiving stolen</u>	7619
<u>property, and any other offense that directly reflects on the</u>	7620
<u>contractor's business integrity;</u>	7621

- (12) Been convicted under state or federal antitrust laws; 7622
- (13) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract; 7623
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- (14) Violated any other responsible business practice or performed in an unsatisfactory manner as determined by the director; 7626
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- (15) Acted in such a manner as to be debarred from participating in a contract with any governmental agency. 7629
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- (B) When the director reasonably believes that grounds for debarment exist, the director shall send the contractor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the contractor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the contractor of the decision by certified mail, return receipt requested. 7631
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- (C) The director shall determine the length of the debarment period and may rescind the debarment at any time upon notification to the contractor. During the period of debarment, the contractor is not eligible to participate in any state contract. After the debarment period expires, the contractor shall be eligible to be awarded contracts by state agencies. 7642
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- (D) The director, through the office of the state architect, shall maintain a list of all contractors currently debarred under this section. Any entity awarding a contract for construction of a public improvement under this chapter may use a contractor's presence on the debarment list to determine whether a contractor 7648
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is responsible under section 9.312 of the Revised Code in the 7653
award of a contract. 7654

Sec. 173.26. (A) Each of the following facilities shall 7655
annually pay to the department of aging six dollars for each bed 7656
maintained by the facility for use by a resident during any part 7657
of the previous year: 7658

(1) Nursing homes, residential care facilities, and homes for 7659
the aging as defined in section 3721.01 of the Revised Code; 7660

(2) Facilities authorized to provide extended care services 7661
under Title XVIII of the "Social Security Act," 49 Stat. 620 7662
(1935), 42 U.S.C. 301, as amended; 7663

(3) County homes and district homes operated pursuant to 7664
Chapter 5155. of the Revised Code; 7665

(4) Adult care facilities as defined in section 3722.01 of 7666
the Revised Code; 7667

(5) Facilities approved by the Veterans Administration under 7668
Section 104(a) of the "Veterans Health Care Amendments of 1983," 7669
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 7670
the placement and care of veterans. 7671

The department shall, by rule adopted in accordance with 7672
Chapter 119. of the Revised Code, establish deadlines for payments 7673
required by this section. A facility that fails, within ninety 7674
days after the established deadline, to pay a payment required by 7675
this section shall be assessed at two times the original invoiced 7676
payment. 7677

(B) All money collected under this section shall be deposited 7678
in the state treasury to the credit of the office of the state 7679
long-term care ombudsperson program fund, which is hereby created. 7680
Money credited to the fund shall be used solely to pay the costs 7681
of operating the regional long-term care ombudsperson programs. 7682

(C) The state long-term care ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.39. As used in sections 173.39 to 173.393 of the Revised Code, "community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

Except as provided in section 173.392 of the Revised Code, the department of aging may not pay a person or government entity for providing community-based long-term care services under a program the department administers unless the person or government entity is certified under section 173.391 of the Revised Code and provides the services.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity issued a certificate under division (A)(1) of this section:

(a) Issue a written warning;

(b) Require the submission of a plan of correction;

(c) Suspend referrals;

<u>(d) Remove clients;</u>	7712
<u>(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;</u>	7713 7714
<u>(f) Revoke the certificate;</u>	7715
<u>(g) Impose another sanction.</u>	7716
<u>(3) Hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes or does not take under division (A)(1) or (2) of this section.</u>	7717 7718 7719 7720
<u>(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:</u>	7721 7722 7723 7724 7725 7726
<u>(1) Ensuring that PASSPORT agencies, as defined in section 173.41 of the Revised Code, comply with that section;</u>	7727 7728
<u>(2) Evaluating the services provided to ensure that they are provided in a quality manner advantageous to the individual receiving the services;</u>	7729 7730 7731
<u>(3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take.</u>	7732 7733 7734
<u>(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation:</u>	7735 7736 7737
<u>(1) The service provider's experience and financial responsibility;</u>	7738 7739
<u>(2) The service provider's ability to comply with standards</u>	7740

for the community-based long-term care services that the provider 7741
provides under a program the department administers; 7742

(3) The service provider's ability to meet the needs of the 7743
individuals served; 7744

(4) Any other factor the director considers relevant. 7745

(D) The rules adopted under division (B)(3) of this section 7746
shall specify that the reasons disciplinary action may be taken 7747
under division (A)(2) of this section include good cause, 7748
including misfeasance, malfeasance, nonfeasance, confirmed abuse 7749
or neglect, financial irresponsibility, or other conduct the 7750
director determines is injurious to the health or safety of 7751
individuals being served. 7752

Sec. 173.392. (A) The department of aging may pay a person or 7753
government entity for providing community-based long-term care 7754
services under a program the department administers, even though 7755
the person or government entity is not certified under section 7756
173.391 of the Revised Code if all of the following are the case: 7757

(1) The person or government entity has a contract with the 7758
department of aging or the department's designee to provide the 7759
services; 7760

(2) The contract includes detailed conditions of 7761
participation for providers of services under a program the 7762
department administers and service standards that the person or 7763
government entity is required to satisfy; 7764

(3) The person or government entity complies with the 7765
contract; 7766

(4) The contract is not for medicaid-funded services, other 7767
than services provided under the PACE program administered by the 7768
department of aging under section 173.50 of the Revised Code. 7769

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code governing both of the following: 7770
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(1) Contracts between the department of aging and persons and government entities regarding community-based long-term care services provided under a program the department administers; 7773
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(2) The department's payment for community-based long-term care services provided under such a contract. 7776
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Sec. 173.393. (A) Except as provided in division (B) of this section, the records of an evaluation conducted in accordance with rules adopted under division (B)(2) of section 173.391 of the Revised Code are public records for purposes of section 149.43 of the Revised Code and shall be made available on request of any person, including individuals receiving or seeking community-based long-term care services under a program the department of aging administers. 7778
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(B) A part of a record of an evaluation that is otherwise available as a public record under division (A) of this section is not available as a public record if its release would violate a federal or state statute, regulation, or rule, including regulations adopted by the United States department of health and human services to implement the health information privacy provisions of the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended. 7786
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Sec. 173.40. There is hereby created a medicaid waiver component ~~of the medicaid program established under Chapter 5111.~~ as defined in section 5111.85 of the Revised Code, to be known as the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide 7795
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home and community-based services as an alternative to nursing 7800
facility placement for aged and disabled medicaid recipients. The 7801
program shall be operated pursuant to a home and community-based 7802
waiver granted by the United States secretary of health and human 7803
services under section 1915 of the "Social Security Act," 49 Stat. 7804
620 (1935), 42 U.S.C. 1396n, as amended. The department of aging 7805
shall administer the program through a contract entered into with 7806
the department of job and family services under section 5111.91 of 7807
the Revised Code. The ~~directors~~ director of ~~aging and~~ job and 7808
family services shall adopt rules under section 5111.85 of the 7809
Revised Code and the director of aging shall adopt rules in 7810
accordance with Chapter 119. of the Revised Code to implement the 7811
program. 7812

Sec. ~~5101.75~~ 173.42. (A) As used in ~~sections 5101.75,~~ 7813
~~5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code~~ 7814
this section: 7815

(1) "~~Alternative source of long term care~~" includes a 7816
~~residential care facility licensed under Chapter 3721. of the~~ 7817
~~Revised Code, an adult care facility licensed under Chapter 3722.~~ 7818
~~of the Revised Code, home and community based services, and a~~ 7819
~~nursing home licensed under Chapter 3721. of the Revised Code that~~ 7820
~~is not a nursing facility~~ Area agency on aging" means a public or 7821
private nonprofit entity designated under section 173.011 of the 7822
Revised Code to administer programs on behalf of the department of 7823
aging. 7824

(2) "Long-term care consultation" means the process used to 7825
provide services under the long-term care consultation program 7826
established pursuant to this section, including, but not limited 7827
to, such services as the provision of information about long-term 7828
care options and costs, the assessment of an individual's 7829
functional capabilities, and the conduct of all or part of the 7830

reviews, assessments, and determinations specified in sections 7831
5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and 7832
the rules adopted under those sections. 7833

(3) "Medicaid" means the medical assistance program 7834
established under Chapter 5111. of the Revised Code. 7835

~~(3)~~(4) "Nursing facility" has the same meaning as in section 7836
5111.20 of the Revised Code. 7837

~~(4)~~(5) "Representative" means a person acting on behalf of an 7838
~~applicant~~ individual seeking a long-term care consultation, 7839
applying for admission to a nursing facility, or residing in a 7840
nursing facility. A representative may be a family member, 7841
attorney, hospital social worker, or any other person chosen to 7842
act on behalf of ~~an applicant~~ the individual. 7843

~~(5)~~ "Third party payment source" means a third party payer as 7844
defined in section 3901.38 of the Revised Code or medicaid. 7845

~~(B) Effective July 1, 1994, the department of job and family~~ 7846
~~services may assess a person applying or intending to apply for~~ 7847
~~admission to a nursing facility who is not an applicant for or~~ 7848
~~recipient of medicaid to determine whether the person is in need~~ 7849
~~of nursing facility services and whether an alternative source of~~ 7850
~~long term care is more appropriate for the person in meeting the~~ 7851
~~person's physical, mental, and psychosocial needs than admission~~ 7852
~~to the facility to which the person has applied.~~ 7853

~~Each assessment shall be performed by the department or an~~ 7854
~~agency designated by the department under section 5101.751 of the~~ 7855
~~Revised Code and shall be based on information provided by the~~ 7856
~~person or the person's representative. It shall consider the~~ 7857
~~person's physical, mental, and psychosocial needs and the~~ 7858
~~availability and effectiveness of informal support and care. The~~ 7859
~~department or designated agency shall determine the person's~~ 7860
~~physical, mental, and psychosocial needs by using, to the maximum~~ 7861

~~extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons~~ The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may enter into a contract with an area agency on aging or other entity selected by the department under which the program for a particular area is administered by the area agency on aging or other entity pursuant to the contract.

(D) The long-term care consultations provided for purposes of the program shall be provided by 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 7894
care is more appropriate for the person than admission to the 7895
facility to which the person has applied, the department or 7896
designated agency shall include in the notice possible sources of 7897
financial assistance for the alternative source of long term care. 7898
If the department or designated agency has been informed that the 7899
person has a representative, it shall give the notice to the 7900
representative. 7901~~

~~(C) A person~~ (E) The information provided through a long-term 7902
care consultation shall be appropriate to the individual's needs 7903
and situation and shall address all of the following: 7904

(1) The availability of any long-term care options open to 7905
the individual; 7906

(2) Sources and methods of both public and private payment 7907
for long-term care services; 7908

(3) Factors to consider when choosing among the available 7909
programs, services, and benefits; 7910

(4) Opportunities and methods for maximizing independence and 7911
self-reliance, including support services provided by the 7912
individual's family, friends, and community. 7913

(F) An individual's long-term care consultation may include 7914
an assessment of the individual's functional capabilities. The 7915
consultation may incorporate portions of the determinations 7916
required under sections 5111.202, 5119.061, and 5123.021 of the 7917
Revised Code and may be provided concurrently with the assessment 7918
required under section 5111.204 of the Revised Code. 7919

(G)(1) Unless an exemption specified in division (I) of this 7920
section is applicable, each individual in the following categories 7921
shall be provided with a long-term care consultation: 7922

(a) Individuals who apply or indicate an intention to apply 7923

for admission to a nursing facility, regardless of the source of 7924
payment to be used for their care in a nursing facility; 7925

(b) Nursing facility residents who apply or indicate an 7926
intention to apply for medicaid; 7927

(c) Nursing facility residents who are likely to spend down 7928
their resources within six months after admission to a nursing 7929
facility to a level at which they are financially eligible for 7930
medicaid; 7931

(d) Individuals who request a long-term care consultation. 7932

(2) In addition to the individuals included in the categories 7933
specified in division (G)(1) of this section, long-term care 7934
consultations may be provided to nursing facility residents who 7935
have not applied and have not indicated an intention to apply for 7936
medicaid. The purpose of the consultations provided to these 7937
individuals shall be to determine continued need for nursing 7938
facility services, to provide information on alternative services, 7939
and to make referrals to alternative services. 7940

(H)(1) When a long-term care consultation is required to be 7941
provided pursuant to division (G)(1) of this section, the 7942
consultation shall be provided as follows or pursuant to division 7943
(H)(2) or (3) of this section: 7944

(a) If the individual for whom the consultation is being 7945
provided has applied for medicaid and the consultation is being 7946
provided concurrently with the assessment required under section 7947
5111.204 of the Revised Code, the consultation shall be completed 7948
in accordance with the applicable time frames specified in that 7949
section for providing a level of care determination based on the 7950
assessment. 7951

(b) In all other cases, the consultation shall be provided 7952
not later than five calendar days after the department or the 7953

program administrator under contract with the department receives 7954
notice of the reason for which the consultation is required to be 7955
provided pursuant to division (G)(1) of this section. 7956

(2) An individual or the individual's representative may 7957
request that a long-term care consultation be provided on a date 7958
that is later than the date required under division (H)(1)(a) or 7959
(b) of this section. 7960

(3) If a long-term care consultation cannot be completed 7961
within the number of days required by division (H)(1) or (2) of 7962
this section, the department or the program administrator under 7963
contract with the department may do any of the following: 7964

(a) Exempt the individual from the consultation pursuant to 7965
rules that may be adopted under division (L) of this section; 7966

(b) In the case of an applicant for admission to a nursing 7967
facility, provide the consultation after the individual is 7968
admitted to the nursing facility; 7969

(c) In the case of a resident of a nursing facility, provide 7970
the consultation as soon as practicable. 7971

(I) An individual is not required to be assessed provided a 7972
long-term care consultation under ~~division (B)~~ of this section if 7973
any of the following apply: 7974

(1) The ~~circumstances~~ individual or the individual's 7975
representative chooses to forego participation in the consultation 7976
pursuant to criteria specified by in rules adopted under division 7977
~~(I)~~(L) of this section ~~exist~~; 7978

(2) The ~~person~~ individual is to receive care in a nursing 7979
facility under a contract for continuing care as defined in 7980
section 173.13 of the Revised Code; 7981

(3) The ~~person~~ individual has a contractual right to 7982
admission to a nursing facility operated as part of a system of 7983

continuing care in conjunction with one or more facilities that 7984
provide a less intensive level of services, including a 7985
residential care facility licensed under Chapter 3721. of the 7986
Revised Code, an ~~adult care~~ adult care facility licensed under 7987
Chapter 3722. of the Revised Code, or an independent living 7988
arrangement; 7989

(4) The ~~person~~ individual is to receive continual care in a 7990
home for the aged exempt from taxation under section 5701.13 of 7991
the Revised Code; 7992

(5) The ~~person is to receive care in the nursing facility for~~ 7993
~~not more than fourteen days in order to provide temporary relief~~ 7994
~~to the person's primary caregiver and the nursing facility~~ 7995
~~notifies the department of the person's admittance not later than~~ 7996
~~twenty four hours after admitting the person~~ individual is seeking 7997
admission to a facility that is not a nursing facility with a 7998
provider agreement under section 5111.22 of the Revised Code; 7999

(6) The ~~person~~ individual is to be transferred from another 8000
nursing facility, ~~unless the nursing facility from which or to~~ 8001
~~which the person is to be transferred determines that the person's~~ 8002
~~medical condition has changed substantially since the person's~~ 8003
~~admission to the nursing facility from which the person is to be~~ 8004
~~transferred or a review is required by a third party payment~~ 8005
~~source;~~ 8006

(7) The ~~person~~ individual is to be readmitted to a nursing 8007
facility following a period of hospitalization, ~~unless the~~ 8008
~~hospital or nursing facility determines that the person's medical~~ 8009
~~condition has changed substantially since the person's admission~~ 8010
~~to the hospital, or a review is required by a third party payment~~ 8011
~~source;~~ 8012

(8) The ~~department or designated agency fails to complete an~~ 8013
~~assessment within the time required by division (D) or (E) of this~~ 8014

~~section or determines after a partial assessment that the person~~ 8015
~~should be exempt from the assessment individual is exempted from~~ 8016
~~the long-term care consultation requirement by the department or~~ 8017
~~the program administrator pursuant to rules that may be adopted~~ 8018
~~under division (L) of this section.~~ 8019

~~(D) The department or designated agency shall perform a~~ 8020
~~complete assessment, or, if circumstances provided by rules~~ 8021
~~adopted under division (I) of this section exist, a partial~~ 8022
~~assessment, as follows:~~ 8023

~~(1) In the case of a hospitalized person applying or~~ 8024
~~intending to apply to a nursing facility, not later than two~~ 8025
~~working days after the person or the person's representative is~~ 8026
~~notified that a bed is available in a nursing facility;~~ 8027

~~(2) In the case of an emergency as determined in accordance~~ 8028
~~with rules adopted under division (I) of this section, not later~~ 8029
~~than one working day after the person or the person's~~ 8030
~~representative is notified that a bed is available in a nursing~~ 8031
~~facility;~~ 8032

~~(3) In all other cases, not later than five calendar days~~ 8033
~~after the person or the person's representative who submits the~~ 8034
~~application is notified that a bed is available in a nursing~~ 8035
~~facility.~~ 8036

~~(E) If the department or designated agency conducts a partial~~ 8037
~~assessment under division (D) of this section, it shall complete~~ 8038
~~the rest of the assessment not later than one hundred eighty days~~ 8039
~~after the date the person is admitted to the nursing facility~~ 8040
~~unless the assessment entity determines the person should be~~ 8041
~~exempt from the assessment.~~ 8042

~~(F) A person assessed under this section or the person's~~ 8043
~~representative may file a complaint with the department about the~~ 8044
~~assessment process. The department shall work to resolve the~~ 8045

~~complaint in accordance with rules adopted under division (I) of
this section.~~ 8046
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~~(G) A person (J) 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.~~ 8048
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~~(H)(K) 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 (I) of this section is applicable to the
individual.~~ 8061
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~~(I)(L) 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 any or all of the following:~~ 8070
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~~(1) The information a person being assessed or the person's~~ 8076

~~representative must provide to enable the department or designated agency to do the assessment;~~ 8077
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~~(2) Criteria to be used to determine whether a person is in need of nursing facility services;~~ 8079
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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;~~ 8081
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~~(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;~~ 8084
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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;~~ 8086
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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;~~ 8089
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~~(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;~~ 8092
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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;~~ 8095
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~~(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section~~ 8097
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Procedures for providing long-term care consultations pursuant to this section; 8099
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(2) Information to be provided through long-term care consultations regarding long-term care services that are available; 8101
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(3) Criteria under which an individual or the individual's representative may choose to forego participation in a long-term care consultation; 8104
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(4) Criteria for exempting individuals from the long-term care consultation requirement; 8107
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(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission; 8109
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(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation. 8113
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~~(J)(M)~~ 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: 8115
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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;~~ 8119
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~~(2) The if the nursing facility admits or retains an individual, without evidence that a complete or partial assessment long-term care consultation has been conducted provided, a person other than a person exempt from the assessment requirement as provided required by division (C) of this section.~~ 8122
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~~The director shall deposit In accordance with section 5111.62 of the Revised Code, all fines collected under this division shall be deposited into the state treasury to the credit of the residents protection fund established by section 5111.62 of the Revised Code.~~ 8127
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Sec. 5101.752 173.43. The department of ~~job and family services~~ aging shall certify ~~registered nurses licensed under Chapter 4723. of the Revised Code and social workers and independent social workers licensed under Chapter 4757. of the Revised Code~~ individuals who meet certification requirements 8132
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established by rule to ~~perform assessments under~~ provide long-term 8137
care consultations for purposes of section 5101.75 ~~or 5101.754~~ 8138
173.42 of the Revised Code. The director of ~~job and family~~ 8139
~~services~~ aging shall adopt rules in accordance with Chapter 119. 8140
of the Revised Code governing the certification process and 8141
requirements. The rules shall specify the education, experience, 8142
or training in ~~geriatric~~ long-term care a person must have to 8143
qualify for certification. 8144

Sec. 173.44. (A) As used in this section, "nursing home" and 8145
"residential care facility" have the same meanings as in section 8146
3721.01 of the Revised Code. 8147

(B) The department of aging may conduct an annual survey of 8148
nursing homes and residential care facilities. The survey shall 8149
include questions about capacity, occupancy, and private pay 8150
charges. The department may contract with an outside entity to 8151
conduct the survey and analyze the results. The results of the 8152
survey and any analysis completed by the department or its 8153
designee shall be made available to the general assembly, other 8154
state agencies, nursing home and residential care facility 8155
providers, and the general public. 8156

(C) No nursing home or residential care facility shall 8157
recklessly fail to complete the survey. 8158

Sec. 173.45. As used in this section and in sections 173.46 8159
to 173.49 of the Revised Code: 8160

(A) "Long-term care facility" means a nursing home or 8161
residential care facility. 8162

(B) "Nursing home" and "residential care facility" have the 8163
same meanings as in section 3721.01 of the Revised Code. 8164

(C) "Nursing facility" has the same meaning as in section 8165
5111.20 of the Revised Code. 8166

Sec. 173.46. (A) The department of aging shall develop and 8167
publish a guide to long-term care facilities for use by 8168
individuals considering long-term care facility admission and 8169
their families, friends, and advisors. The guide, which shall be 8170
titled the Ohio long-term care consumer guide, may be published in 8171
printed form or in electronic form for distribution over the 8172
internet. The guide may be developed as a continuation or 8173
modification of the guide published by the department prior to the 8174
effective date of this section under rules adopted under section 8175
173.02 of the Revised Code. 8176

(B) The Ohio long-term care consumer guide shall include 8177
information on each long-term care facility in this state. For 8178
each facility, the guide shall include the following information, 8179
as applicable to the facility: 8180

(1) Information regarding the facility's compliance with 8181
state statutes and rules and federal statutes and regulations; 8182

(2) Information generated by the centers for medicare and 8183
medicaid services of the United States department of health and 8184
human services from the quality measures developed as part of its 8185
nursing home quality initiative; 8186

(3) Results of the customer satisfaction surveys conducted 8187
under section 173.47 of the Revised Code; 8188

(4) Any other information the department specifies in rules 8189
adopted under section 173.49 of the Revised Code. 8190

Sec. 173.47. (A) For purposes of publishing the Ohio 8191
long-term care consumer guide, the department of aging shall 8192
conduct or provide for the conduct of an annual customer 8193
satisfaction survey of each long-term care facility. The results 8194
of the surveys may include information obtained from long-term 8195
care facility residents, their families, or both. 8196

(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. 8197
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(2) The fees charged under this section shall not exceed the following amounts: 8202
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(a) Four hundred dollars for the customer satisfaction survey of a long-term care facility that is a nursing home; 8204
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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. 8206
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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. 8209
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(C) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey. 8212
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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, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys. 8214
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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. 8222
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Sec. 173.50. (A) Pursuant to a contract entered into with the 8226
department of job and family services as an interagency agreement 8227
under section 5111.91 of the Revised Code, the department of aging 8228
shall carry out the day-to-day administration of the component of 8229
the medicaid program established under Chapter 5111. of the 8230
Revised Code known as the program of all-inclusive care for the 8231
elderly or PACE. The department of aging shall carry out its PACE 8232
administrative duties in accordance with the provisions of the 8233
interagency agreement and all applicable federal laws, including 8234
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, 8235
as amended. 8236

(B) The department of aging may adopt rules in accordance 8237
with Chapter 119. of the Revised Code regarding the PACE program, 8238
subject to both of the following: 8239

(1) The rules shall be authorized by rules adopted by the 8240
department of job and family services. 8241

(2) The rules shall address only those issues that are not 8242
addressed in rules adopted by the department of job and family 8243
services for the PACE program. 8244

Sec. 173.99. (A) A long-term care provider, person employed 8245
by a long-term care provider, other entity, or employee of such 8246
other entity that violates division (C) of section 173.24 of the 8247
Revised Code is subject to a fine not to exceed one thousand 8248
dollars for each violation. 8249

(B) Whoever violates division (C) of section 173.23 of the 8250
Revised Code is guilty of registering a false complaint, a 8251
misdemeanor of the first degree. 8252

(C) A long-term care provider, other entity, or person 8253
employed by a long-term care provider or other entity that 8254
violates division (E) of section 173.19 of the Revised Code by 8255

denying a representative of the office of the state long-term care 8256
ombudsperson program the access required by that division is 8257
subject to a fine not to exceed five hundred dollars for each 8258
violation. 8259

(D) Whoever violates division (C) of section 173.44 of the 8260
Revised Code is subject to a fine of one hundred dollars. 8261

Sec. 183.28. The education technology trust fund is hereby 8262
created in the state treasury. Money credited to the fund shall be 8263
used to pay costs of the eTech Ohio ~~SchoolNet~~ commission under 8264
section ~~3301.80~~ 3353.02 of the Revised Code. All investment 8265
earnings of the fund shall be credited to the fund. 8266

Sec. 184.02. (A) The third frontier commission may perform 8267
any act to ensure the performance of any function necessary or 8268
appropriate to carry out the purposes of, and exercise the powers 8269
granted under, sections 184.01 and 184.02 of the Revised Code. In 8270
addition, the commission may do any of the following: 8271

(1) Adopt, amend, and rescind rules under section 111.15 of 8272
the Revised Code for the administration of any aspect of its 8273
operations; 8274

(2) Adopt bylaws governing its operations, including bylaws 8275
that establish procedures and set policies as may be necessary to 8276
assist with the furtherance of its purposes; 8277

(3) Appoint and set the compensation of employees needed to 8278
carry out its duties; 8279

(4) Contract with, retain the services of, or designate, and 8280
fix the compensation of, such financial consultants, accountants, 8281
other consultants and advisors, and other independent contractors 8282
as may be necessary or desirable to carry out its duties; 8283

(5) Solicit input and comments from the third frontier 8284

advisory board, and specialized industry, professional, and other 8285
relevant interest groups concerning its purposes; 8286

(6) Facilitate alignment of the state's science and 8287
technology programs and activities; 8288

(7) Make grants and loans to individuals, public agencies, 8289
private companies or organizations, or joint ventures for any of 8290
the broad range of activities related to its purposes. 8291

(B) The commission shall do all of the following: 8292

(1) Establish a competitive process for the award of grants 8293
and loans that is designed to fund the most meritorious proposals 8294
and, when appropriate, provide for peer review of proposals; 8295

(2) Within ninety days after the end of each fiscal year, 8296
submit to the governor and the general assembly a report of the 8297
activities of the commission during the preceding fiscal year; 8298

(3) With specific application to the biomedical research and 8299
technology transfer trust fund, periodically make strategic 8300
assessments of the types of state investments in biomedical 8301
research and biotechnology in the state that would likely create 8302
jobs and business opportunities in the state and produce the most 8303
beneficial long-term improvements to the public health of ~~Ohioians~~ 8304
Ohioans, including, but not limited to, biomedical research and 8305
biotechnology initiatives that address tobacco-related illnesses 8306
as may be outlined in any master agreement. The commission shall 8307
award grants and loans from the fund pursuant to a process 8308
established under division (B)(1) of this section. 8309

(C) Notwithstanding the authority granted to the commission 8310
under sections 184.01 to 184.04 of the Revised Code, the 8311
commission shall not make any grants or loans to individuals, 8312
public agencies, private companies or organizations, or joint 8313
ventures for any activities involving stem cell research with 8314

embryonic tissue.

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Sec. 305.171. (A) The board of county commissioners of any county may contract for, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies that may provide benefits including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, and that may provide sickness and accident insurance, group legal services, or group life insurance, or a combination of any of the foregoing types of insurance or coverage, for county officers and employees and their immediate dependents from the funds or budgets from which the county officers or employees are compensated for services, issued by an insurance company.

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(B) The board of county commissioners also may negotiate and contract for any plan or plans of health care services with health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code, provided that each county officer or employee shall be permitted to do both of the following:

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(1) Exercise an option between a plan offered by an insurance company and ~~such~~ a plan or plans offered by health insuring corporations under this division, on the condition that the county officer or employee shall pay any amount by which the cost of the plan chosen by ~~such~~ the county officer or employee pursuant to this division exceeds the cost of the plan offered under division (A) of this section;

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(2) Change from one of the plans to another at a time each year as determined by the board.

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(C) Section 307.86 of the Revised Code does not apply to the purchase of benefits for county officers or employees under

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divisions (A) and (B) of this section when those benefits are 8345
provided through a jointly administered health and welfare trust 8346
fund in which the county or contracting authority and a collective 8347
bargaining representative of the county employees or contracting 8348
authority agree to participate. 8349

(D) The board of trustees of a jointly administered trust 8350
fund that receives contributions pursuant to collective bargaining 8351
agreements entered into between the board of county commissioners 8352
of any county and a collective bargaining representative of the 8353
employees of the county may provide for self-insurance of all risk 8354
in the provision of fringe benefits, and may provide through the 8355
self-insurance method specific fringe benefits as authorized by 8356
the rules of the board of trustees of the jointly administered 8357
trust fund. The fringe benefits may include, but are not limited 8358
to, hospitalization, surgical care, major medical care, 8359
disability, dental care, vision care, medical care, hearing aids, 8360
prescription drugs, group life insurance, sickness and accident 8361
insurance, group legal services, or a combination of any of the 8362
foregoing types of insurance or coverage, for county employees and 8363
their dependents. 8364

(E) The board of county commissioners may provide the 8365
benefits described in divisions (A) to (D) of this section through 8366
an individual self-insurance program or a joint self-insurance 8367
program as provided in section 9.833 of the Revised Code. 8368

(F) When a board of county commissioners offers health 8369
benefits authorized under this section to ~~an~~ a county officer or 8370
employee ~~of the county~~, the board may offer the benefits through a 8371
cafeteria plan meeting the requirements of section 125 of the 8372
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, 8373
as amended, and, as part of that plan, may offer the county 8374
officer or employee the option of receiving a cash payment in any 8375
form permissible under such cafeteria plans. A cash payment made 8376

to ~~an~~ a county officer or employee under this division shall not 8377
exceed twenty-five per cent of the cost of premiums or payments 8378
that otherwise would be paid by the board for benefits for the 8379
county officer or employee under a policy or plan. 8380

(G) The board of county commissioners may establish a policy 8381
authorizing any county appointing authority to make a cash payment 8382
to any county officer or employee in lieu of providing a benefit 8383
authorized under this section if the county officer or employee 8384
elects to take the cash payment instead of the offered benefit. A 8385
cash payment made to ~~an~~ a county officer or employee under this 8386
division shall not exceed twenty-five per cent of the cost of 8387
premiums or payments that otherwise would be paid by the board for 8388
benefits for the county officer or employee under an offered 8389
policy or plan. 8390

(H) No cash payment in lieu of a health benefit shall be made 8391
to a county officer or employee under division (F) or (G) of this 8392
section unless the county officer or employee signs a statement 8393
affirming that the county officer or employee is covered under 8394
another health insurance or health care policy, contract, or plan, 8395
and setting forth the name of the employer, if any, that sponsors 8396
the coverage, the name of the carrier that provides the coverage, 8397
and the identifying number of the policy, contract, or plan. 8398

~~(I)(1) As used in this division:~~ 8399

~~(a) "County operated municipal court" and "legislative 8400
authority" have the same meanings as in section 1901.03 of the 8401
Revised Code.~~ 8402

~~(b) "Health care coverage" has the same meaning as in section 8403
1901.111 of the Revised Code.~~ 8404

~~(2) The legislative authority of a county-operated municipal 8405
court, after consultation with the judges, or the clerk and deputy 8406
clerks, of the municipal court, shall negotiate and contract for, 8407~~

purchase, or otherwise procure, and pay the costs, premiums, or 8408
charges for, group health care coverage for the judges, and group 8409
health care coverage for the clerk and deputy clerks, in 8410
accordance with section 1901.111 or 1901.312 of the Revised Code. 8411

(J) As used in this section: 8412

(1) "County officer or employee" includes, but is not limited 8413
to, a member or employee of the county board of elections. 8414

(2) "County-operated municipal court" and "legislative 8415
authority" have the same meanings as in section 1901.03 of the 8416
Revised Code. 8417

(3) "Health care coverage" has the same meaning as in section 8418
1901.111 of the Revised Code. 8419

Sec. 306.331. Notwithstanding section 306.33 of the Revised 8420
Code, the board of trustees of any regional transit authority 8421
created by one county and two municipal corporations, with the 8422
county having a population of at least five hundred thousand 8423
according to the most recent federal census, shall be appointed 8424
and governed as provided in this section. 8425

The board of trustees of such a regional transit authority 8426
shall consist of nine members, six of whom shall be appointed by 8427
the board of county commissioners, two of whom shall be appointed 8428
by the most populous municipal corporation that is included in the 8429
regional transit authority, and one of whom shall be appointed by 8430
the remaining municipal corporation that is included in the 8431
regional transit authority. A trustee appointed under this section 8432
shall serve at the pleasure of the appointing authority. 8433

The trustees of any authority first appointed under this 8434
section shall serve staggered terms. Thereafter each successor 8435
shall serve a term of three years, except that any person 8436
appointed to fill a vacancy shall be appointed to only the 8437

unexpired term. The resolutions or ordinances creating the 8438
regional transit authority may determine whether an appointed 8439
trustee is eligible for reappointment. 8440

A majority of the board of trustees constitutes a quorum, the 8441
affirmative vote of which is necessary for any action taken by the 8442
authority. No vacancy in the board shall impair the rights of a 8443
quorum to exercise all rights and perform all the duties of the 8444
authority. 8445

Each member of the board of trustees, before entering upon 8446
the trustee's official duties, shall take and subscribe to an oath 8447
or affirmation that the trustee will honestly, faithfully, and 8448
impartially perform the duties of office and that the trustee will 8449
not be personally interested directly or indirectly in any 8450
contract let by the regional transit authority. 8451

After each member of the board has taken the oath as 8452
prescribed by this section, the board shall meet and organize by 8453
electing one of its members as president and another as 8454
vice-president, who shall hold their respective offices until the 8455
next annual meeting of the board as provided in its bylaws. At 8456
each annual meeting thereafter, the board shall elect from its 8457
membership a president and a vice-president who shall serve for a 8458
term of one year. The board shall hold regular and special 8459
meetings as provided in its bylaws. All meetings shall be open to 8460
the public. 8461

The board shall appoint and fix the compensation of a 8462
secretary-treasurer, who shall be the fiscal officer. The 8463
secretary-treasurer shall not be a member of the board and shall 8464
serve at the pleasure of the board. Each member of the board of 8465
trustees is entitled to receive from the regional transit 8466
authority reimbursement for reasonable expenses in the performance 8467
of the trustee's duties. 8468

Sec. 307.37. (A) As used in division (B)(3) of this section, 8469
"proposed new construction" means a proposal to erect, construct, 8470
repair, alter, redevelop, or maintain a single-family, two-family, 8471
or three-family dwelling or any structure that is regulated by the 8472
Ohio building code. 8473

(B)(1)(a) The board of county commissioners may adopt local 8474
residential building regulations governing residential buildings 8475
as defined in section 3781.06 of the Revised Code, to be enforced 8476
within the unincorporated area of the county or within districts 8477
the board establishes in any part of the unincorporated area. No 8478
local residential building regulation shall differ from the state 8479
residential building code the board of building standards 8480
establishes pursuant to Chapter 3781. of the Revised Code unless 8481
the regulation addresses subject matter not addressed by the state 8482
residential building code or is adopted pursuant to section 8483
3781.01 of the Revised Code. 8484

(b) The board of county commissioners may, by resolution, 8485
adopt, administer, and enforce within the unincorporated area of 8486
the county, or within districts the board establishes in the 8487
unincorporated area, an existing structures code pertaining to the 8488
repair and continued maintenance of structures and the premises of 8489
those structures provided that the existing structures code 8490
governs subject matter not addressed by, and is not in conflict 8491
with, the state residential building code adopted pursuant to 8492
Chapter 3781. of the Revised Code. The board may adopt by 8493
~~incorporation~~ incorporation by reference a model or standard code 8494
prepared and promulgated by the state, any agency of this state, 8495
or any private organization that publishes a recognized or 8496
standard existing structures code. 8497

(c) The board shall assign the duties of administering and 8498
enforcing any local residential building regulations or existing 8499

structures code to a county officer or employee who is trained and 8500
qualified for those duties and shall establish by resolution the 8501
minimum qualifications necessary to perform those duties. 8502

(2) The board may adopt regulations for participation in the 8503
national flood insurance program established in the "Flood 8504
Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, 8505
as amended, and regulations adopted for the purposes of section 8506
1506.04 or 1506.07 of the Revised Code governing the prohibition, 8507
location, erection, construction, redevelopment, or floodproofing 8508
of new buildings or structures, substantial improvements to 8509
existing buildings or structures, or other development in 8510
unincorporated territory within flood hazard areas identified 8511
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 8512
42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion 8513
areas identified under section 1506.06 of the Revised Code, 8514
including, but not limited to, residential, commercial, 8515
institutional, or industrial buildings or structures or other 8516
permanent structures, as defined in section 1506.01 of the Revised 8517
Code. Rules adopted under division (B)(2) of this section shall 8518
not conflict with the state residential and nonresidential 8519
building codes adopted pursuant to section 3781.10 of the Revised 8520
Code. 8521

(3)(a) A board may adopt regulations that provide for a 8522
review of the specific effects of a proposed new construction on 8523
existing surface or subsurface drainage. The regulations may 8524
require reasonable drainage mitigation and reasonable alteration 8525
of a proposed new construction before a building permit is issued 8526
in order to prevent or correct any adverse effects that the 8527
proposed new construction may have on existing surface or 8528
subsurface drainage. The regulations shall not be inconsistent 8529
with, more stringent than, or broader in scope than standards 8530
adopted by the natural resource conservation service in the United 8531

States department of agriculture concerning drainage or rules 8532
adopted by the environmental protection agency for reducing, 8533
controlling, or mitigating storm water runoff from construction 8534
sites, where applicable. The regulations shall allow a person who 8535
is registered under Chapter 4703. or 4733. of the Revised Code to 8536
prepare and submit relevant plans and other documents for review, 8537
provided that the person is authorized to prepare the plans and 8538
other documents pursuant to the person's registration. 8539

(b) If regulations are adopted under division (B)(3) of this 8540
section, the board shall specify in the regulations a procedure 8541
for the review of the specific effects of a proposed new 8542
construction on existing surface or subsurface drainage. The 8543
procedure shall include at a minimum all of the following: 8544

(i) A meeting at which the proposed new construction shall be 8545
examined for those specific effects. The meeting shall be held 8546
within thirty days after an application for a building permit is 8547
filed or a review is requested unless the applicant agrees in 8548
writing to extend that time period or to postpone the meeting to 8549
another date, time, or place. The meeting shall be scheduled 8550
within five days after an application for a building permit is 8551
filed or a review is requested. 8552

(ii) Written notice of the date, time, and place of that 8553
meeting, sent by regular mail to the applicant. The written notice 8554
shall be mailed at least seven days before the scheduled meeting 8555
date. 8556

(iii) Completion of the review by the board of county 8557
commissioners not later than thirty days after the application for 8558
a building permit is filed or a review is requested unless the 8559
applicant has agreed in writing to extend that time period or 8560
postpone the meeting to a later time, in which case the review 8561
shall be completed not later than two days after the date of the 8562

meeting. A complete review shall include the issuance of any order 8563
of the board of county commissioners regarding necessary 8564
reasonable drainage mitigation and necessary reasonable 8565
alterations to the proposed new construction to prevent or correct 8566
any adverse effects on existing surface or subsurface drainage so 8567
long as those alterations comply with the state residential and 8568
nonresidential building codes adopted pursuant to section 3781.10 8569
of the Revised Code. If the review is not completed within the 8570
thirty-day period or an extended or postponed period that the 8571
applicant has agreed to, the proposed new construction shall be 8572
deemed to have no adverse effects on existing surface or 8573
subsurface drainage, and those effects shall not be a valid basis 8574
for the denial of a building permit. 8575

(iv) A written statement, provided to the applicant at the 8576
meeting or in an order for alterations to a proposed new 8577
construction, informing the applicant of the right to seek 8578
appellate review of the denial of a building permit under division 8579
(B)(3)(b)(iii) of this section by filing a petition in accordance 8580
with Chapter 2506. of the Revised Code. 8581

(c) The regulations may authorize the board, after obtaining 8582
the advice of the county engineer, to enter into an agreement with 8583
the county engineer or another qualified person or entity to carry 8584
out any necessary inspections and make evaluations about what, if 8585
any, alterations are necessary to prevent or correct any adverse 8586
effects that a proposed new construction may have on existing 8587
surface or subsurface drainage. 8588

(d) Regulations adopted pursuant to division (B)(3) of this 8589
section shall not apply to any property that a platting authority 8590
has approved under section 711.05, 711.09, or 711.10 of the 8591
Revised Code and shall not govern the same subject matter as the 8592
state residential or nonresidential building codes adopted 8593
pursuant to section 3781.10 of the Revised Code. 8594

(e) As used in division (B)(3) of this section, "subsurface drainage" does not include a household sewage treatment system as defined in section 3709.091 of the Revised Code.

(C)(1) Any regulation, code, or amendment may be adopted under this section only after a public hearing at not fewer than two regular or special sessions of the board. The board shall cause notice of any public hearing to be published in a newspaper of general circulation in the county once a week for the two consecutive weeks immediately preceding the hearing, except that if the board posts the hearing notice on the board's internet site on the world wide web, the board need publish only one notice of the hearing in a newspaper of general circulation if that newspaper notice includes the board's internet site and a statement that the notice is also posted on the internet site. Any notice of a public hearing shall include the time, date, and place of the hearing.

(2) Any proposed regulation, code, or amendment shall be made available to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption.

(D)(1) No person shall violate any regulation, code, or amendment the board adopts under sections 307.37 to 307.40 of the Revised Code.

(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense.

(E) Regulations or amendments the board adopts pursuant to this section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the

regulation or amendment. 8626

(F)(1) The board may create a building department and employ 8627
the personnel it determines necessary to administer and enforce 8628
any local residential building regulations or existing structures 8629
code the board adopts pursuant to this section. The building 8630
department may enforce the state residential and nonresidential 8631
building codes adopted pursuant to Chapter 3781. of the Revised 8632
Code if the building department is certified pursuant to section 8633
3781.10 of the Revised Code to enforce those codes. 8634

(2) The board may direct the building department, upon 8635
certification, to exercise enforcement authority and to accept and 8636
approve plans pursuant to sections 3781.03 and 3791.04 of the 8637
Revised Code for the class of building for which the department 8638
and personnel are certified. 8639

Sec. 307.695. (A) As used in this section, ~~"convention:~~ 8640

(1) "Convention center" means any structure expressly 8641
designed and constructed for the purposes of presenting 8642
conventions, public meetings, and exhibitions and includes parking 8643
facilities that serve the center and any personal property used in 8644
connection with any such structure or facilities. 8645

(2) "Community improvement corporation" means a corporation 8646
not for profit organized under Chapter 1724. of the Revised Code. 8647

(B) A board of county commissioners may enter into an 8648
agreement with a convention and visitors' bureau or a community 8649
improvement corporation operating in the county under which: 8650

(1) The bureau or corporation agrees to construct and equip a 8651
convention center in the county and to pledge and contribute from 8652
the tax revenues received by it under division (A) of section 8653
5739.09 of the Revised Code, not more than ~~such~~ the portion 8654
~~thereof~~ of those revenues that it is authorized to pledge and 8655

contribute for the purpose described in division (C) of this 8656
section; and 8657

(2) The board agrees to levy a tax under division (C) of 8658
section 5739.09 of the Revised Code and pledge and contribute the 8659
revenues ~~therefrom~~ from the tax for the purpose described in 8660
division (C) of this section. 8661

(C) The purpose of the pledges and contributions described in 8662
divisions (B)(1) and (2) of this section is payment of principal, 8663
interest, and premium, if any, on bonds and notes issued by or for 8664
the benefit of the convention and visitors' bureau or community 8665
improvement corporation to finance the construction and equipping 8666
of a convention center. The pledges and contributions provided for 8667
in the agreement under division (B) of this section shall be for 8668
the period stated in the agreement, but not to exceed thirty 8669
years. Revenues determined from time to time by the board to be 8670
needed to cover the real and actual costs of administering the tax 8671
imposed by division (C) of section 5739.09 of the Revised Code may 8672
not be pledged or contributed. The agreement under division (B) of 8673
this section shall provide that any such bonds and notes shall be 8674
secured by a trust agreement between the bureau or corporation, or 8675
other issuer acting for the benefit of the bureau or corporation, 8676
and a corporate trustee that is a trust company or bank having the 8677
powers of a trust company within or without the state, and the 8678
trust agreement shall pledge or assign to the retirement of the 8679
bonds or notes, all moneys paid by the county under this section. 8680
A tax the revenues from which are pledged under an agreement 8681
entered into ~~by a board of county commissioners~~ under division (B) 8682
of this section shall not be subject to diminution by initiative 8683
or referendum, or diminution by statute, unless provision is made 8684
therein for an adequate substitute therefor reasonably 8685
satisfactory to the trustee under the trust agreement that secures 8686
the bonds and notes. 8687

(D) A pledge of money by a county under division (B) of this 8688
section shall not be indebtedness of the county for purposes of 8689
Chapter 133. of the Revised Code. 8690

(E) If the terms of the agreement under division (B) of this 8691
section so provide, the board of county commissioners may acquire 8692
and lease real property to the convention and visitors' bureau or 8693
community improvement corporation as the site of the convention 8694
center. The lease shall be for a term not to exceed thirty years 8695
and shall be on ~~such~~ the terms ~~as are~~ set forth in the agreement. 8696
The purchase and lease are not subject to the limitations of 8697
sections 307.02 and 307.09 of the Revised Code. 8698

(F) In addition to the authority granted to a board of county 8699
commissioners under divisions (B) to (E) of this section, a board 8700
of county commissioners in a county with a population of six 8701
hundred thousand or more may establish and provide local funding 8702
options for constructing and equipping a convention center. 8703

Sec. 307.76. (A) The board of county commissioners may 8704
maintain and operate a zoological park, or it may contract with or 8705
contribute to any nonprofit corporation that is organized to 8706
encourage the study of and promote the sciences of natural 8707
history, to maintain and operate a zoological park, to develop 8708
~~such~~ that park, and to provide for the acquisition, disposition, 8709
and care of the animals to be exhibited ~~therein~~ in that park. 8710

(B) A board of county commissioners may maintain and operate 8711
a facility to encourage the study of and promote the sciences, 8712
including, but not limited to, natural history, or it may contract 8713
with or contribute to any nonprofit corporation that is organized 8714
to encourage the study of and promote the sciences, to maintain 8715
and operate such a facility. 8716

Sec. 307.86. Anything to be purchased, leased, leased with an 8717

option or agreement to purchase, or constructed, including, but 8718
not limited to, any product, structure, construction, 8719
reconstruction, improvement, maintenance, repair, or service, 8720
except the services of an accountant, architect, attorney at law, 8721
physician, professional engineer, construction project manager, 8722
consultant, surveyor, or appraiser, by or on behalf of the county 8723
or contracting authority, as defined in section 307.92 of the 8724
Revised Code, at a cost in excess of twenty-five thousand dollars, 8725
except as otherwise provided in division (D) of section 713.23 and 8726
in sections 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 8727
339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 8728
5543.19, 5713.01, and 6137.05 of the Revised Code, shall be 8729
obtained through competitive bidding. However, competitive bidding 8730
is not required when any of the following applies: 8731

(A) The board of county commissioners, by a unanimous vote of 8732
its members, makes a determination that a real and present 8733
emergency exists, and that determination and the reasons for it 8734
are entered in the minutes of the proceedings of the board, when 8735
either of the following applies: 8736

(1) The estimated cost is less than fifty thousand dollars. 8737

(2) There is actual physical disaster to structures, radio 8738
communications equipment, or computers. 8739

For purposes of this division, "unanimous vote" means all 8740
three members of a board of county commissioners when all three 8741
members are present, or two members of the board if only two 8742
members, constituting a quorum, are present. 8743

Whenever a contract of purchase, lease, or construction is 8744
exempted from competitive bidding under division (A)(1) of this 8745
section because the estimated cost is less than fifty thousand 8746
dollars, but the estimated cost is twenty-five thousand dollars or 8747
more, the county or contracting authority shall solicit informal 8748

estimates from no fewer than three persons who could perform the
contract, before awarding the contract. With regard to each such
contract, the county or contracting authority shall maintain a
record of such estimates, including the name of each person from
whom an estimate is solicited. The county or contracting authority
shall maintain the record for the longer of at least one year
after the contract is awarded or the amount of time the federal
government requires.

(B)(1) The purchase consists of supplies or a replacement or
supplemental part or parts for a product or equipment owned or
leased by the county, and the only source of supply for the
supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information
technology, such as programming services, that are proprietary or
limited to a single source.

(C) The purchase is from the federal government, the state,
another county or contracting authority of another county, or a
board of education, township, or municipal corporation.

(D) The purchase is made by a county department of job and
family services under section 329.04 of the Revised Code and
consists of family services duties or workforce development
activities or is made by a county board of mental retardation and
developmental disabilities under section 5126.05 of the Revised
Code and consists of program services, such as direct and
ancillary client services, child care, case management services,
residential services, and family resource services.

(E) The purchase consists of criminal justice services,
social services programs, family services, or workforce
development activities by the board of county commissioners from
nonprofit corporations or associations under programs funded by
the federal government or by state grants.

(F) The purchase consists of any form of an insurance policy 8780
or contract authorized to be issued under Title XXXIX of the 8781
Revised Code or any form of health care plan authorized to be 8782
issued under Chapter 1751. of the Revised Code, or any combination 8783
of such policies, contracts, or plans that the contracting 8784
authority is authorized to purchase, and the contracting authority 8785
does all of the following: 8786

(1) Determines that compliance with the requirements of this 8787
section would increase, rather than decrease, the cost of the 8788
purchase; 8789

(2) Employs a competent consultant to assist the contracting 8790
authority in procuring appropriate coverages at the best and 8791
lowest prices; 8792

(3) Requests issuers of the policies, contracts, or plans to 8793
submit proposals to the contracting authority, in a form 8794
prescribed by the contracting authority, setting forth the 8795
coverage and cost of the policies, contracts, or plans as the 8796
contracting authority desires to purchase; 8797

(4) Negotiates with the issuers for the purpose of purchasing 8798
the policies, contracts, or plans at the best and lowest price 8799
reasonably possible. 8800

(G) The purchase consists of computer hardware, software, or 8801
consulting services that are necessary to implement a computerized 8802
case management automation project administered by the Ohio 8803
prosecuting attorneys association and funded by a grant from the 8804
federal government. 8805

(H) Child care services are purchased for provision to county 8806
employees. 8807

(I)(1) Property, including land, buildings, and other real 8808
property, is leased for offices, storage, parking, or other 8809

purposes, and all of the following apply: 8810

(a) The contracting authority is authorized by the Revised 8811
Code to lease the property. 8812

(b) The contracting authority develops requests for proposals 8813
for leasing the property, specifying the criteria that will be 8814
considered prior to leasing the property, including the desired 8815
size and geographic location of the property. 8816

(c) The contracting authority receives responses from 8817
prospective lessors with property meeting the criteria specified 8818
in the requests for proposals by giving notice in a manner 8819
substantially similar to the procedures established for giving 8820
notice under section 307.87 of the Revised Code. 8821

(d) The contracting authority negotiates with the prospective 8822
lessors to obtain a lease at the best and lowest price reasonably 8823
possible considering the fair market value of the property and any 8824
relocation and operational costs that may be incurred during the 8825
period the lease is in effect. 8826

(2) The contracting authority may use the services of a real 8827
estate appraiser to obtain advice, consultations, or other 8828
recommendations regarding the lease of property under this 8829
division. 8830

(J) The purchase is made pursuant to section 5139.34 or 8831
sections 5139.41 to 5139.46 of the Revised Code and is of programs 8832
or services that provide case management, treatment, or prevention 8833
services to any felony or misdemeanor delinquent, unruly youth, 8834
or status offender under the supervision of the juvenile court, 8835
including, but not limited to, community residential care, day 8836
treatment, services to children in their home, or electronic 8837
monitoring. 8838

(K) The purchase is made by a public children services agency 8839

pursuant to section 307.92 or 5153.16 of the Revised Code and 8840
consists of family services, programs, or ancillary services that 8841
provide case management, prevention, or treatment services for 8842
children at risk of being or alleged to be abused, neglected, or 8843
dependent children. 8844

(L) The purchase is to obtain the services of emergency 8845
medical service organizations under a contract made by the board 8846
of county commissioners pursuant to section 307.05 of the Revised 8847
Code with a joint emergency medical services district. 8848

Any issuer of policies, contracts, or plans listed in 8849
division (F) of this section and any prospective lessor under 8850
division (I) of this section may have the issuer's or prospective 8851
lessor's name and address, or the name and address of an agent, 8852
placed on a special notification list to be kept by the 8853
contracting authority, by sending the contracting authority that 8854
name and address. The contracting authority shall send notice to 8855
all persons listed on the special notification list. Notices shall 8856
state the deadline and place for submitting proposals. The 8857
contracting authority shall mail the notices at least six weeks 8858
prior to the deadline set by the contracting authority for 8859
submitting proposals. Every five years the contracting authority 8860
may review this list and remove any person from the list after 8861
mailing the person notification of that action. 8862

Any contracting authority that negotiates a contract under 8863
division (F) of this section shall request proposals and 8864
renegotiate with issuers in accordance with that division at least 8865
every three years from the date of the signing of such a contract. 8866

Any consultant employed pursuant to division (F) of this 8867
section and any real estate appraiser employed pursuant to 8868
division (I) of this section shall disclose any fees or 8869
compensation received from any source in connection with that 8870

employment.

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Sec. 307.88. (A) Bids submitted pursuant to sections 307.86 to 307.92 of the Revised Code shall be in a form prescribed by the contracting authority and filed in a sealed envelope at the time and place mentioned in the ~~advertisement~~ notice. The bids received shall be opened and tabulated at the time stated in the notice. Each bid shall contain the full name of each person submitting the bid. ~~Except as otherwise provided in division (B) of this section,~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of section 153.54 of the Revised Code. If the bid is in excess of ~~ten~~ twenty-five thousand dollars and for any other contract authorized by sections 307.86 to 307.92 of the Revised Code, it shall be accompanied by a bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association in a reasonable amount stated in the ~~advertisement~~ notice but not to exceed five per cent of the bid, conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is accepted, shall execute a contract in conformity to the invitation and ~~his~~ the bid.

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(B) The board of county commissioners ~~may~~, by a unanimous vote of the entire board, may permit a contracting authority to exempt a bid from any or all of the requirements of section 153.54 of the Revised Code if the estimated cost is ~~less than~~ less than twenty-five thousand dollars or less. If the board exempts a bid from any but not all of ~~these~~ those requirements, the bid notice published in the newspaper pursuant to section 307.87 of the Revised Code shall state the specific bid guaranty requirements that apply. If the board exempts a bid from all requirements of section 153.54 of the Revised Code, the notice shall state that none of the requirements

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of that section apply. 8902

Sec. 317.08. (A) Except as provided in divisions (C) and (D) 8903
of this section, the county recorder shall keep six separate sets 8904
of records as follows: 8905

(1) A record of deeds, in which shall be recorded all deeds 8906
and other instruments of writing for the absolute and 8907
unconditional sale or conveyance of lands, tenements, and 8908
hereditaments; all notices as provided in sections 5301.47 to 8909
5301.56 of the Revised Code; all judgments or decrees in actions 8910
brought under section 5303.01 of the Revised Code; all 8911
declarations and bylaws, and all amendments to declarations and 8912
bylaws, as provided in Chapter 5311. of the Revised Code; 8913
affidavits as provided in section 5301.252 of the Revised Code; 8914
all certificates as provided in section 5311.17 of the Revised 8915
Code; all articles dedicating archaeological preserves accepted by 8916
the director of the Ohio historical society under section 149.52 8917
of the Revised Code; all articles dedicating nature preserves 8918
accepted by the director of natural resources under section 8919
1517.05 of the Revised Code; all agreements for the registration 8920
of lands as archaeological or historic landmarks under section 8921
149.51 or 149.55 of the Revised Code; all conveyances of 8922
conservation easements and agricultural easements under section 8923
5301.68 of the Revised Code; all instruments extinguishing 8924
agricultural easements under section 901.21 or 5301.691 of the 8925
Revised Code or pursuant to terms of such an easement granted to a 8926
charitable organization under section 5301.68 of the Revised Code; 8927
all instruments or orders described in division (B)(1)(c)(ii) of 8928
section 5301.56 of the Revised Code; all no further action letters 8929
issued under section 122.654 or 3746.11 of the Revised Code; all 8930
covenants not to sue issued under section 3746.12 of the Revised 8931
Code, including all covenants not to sue issued pursuant to 8932
section 122.654 of the Revised Code; any restrictions on the use 8933

of property contained in a no further action letter issued under 8934
section 122.654 of the Revised Code, any restrictions on the use 8935
of property identified pursuant to division (C)(3)(a) of section 8936
3746.10 of the Revised Code, and any restrictions on the use of 8937
property contained in a deed or other instrument as provided in 8938
division (E) or (F) of section 3737.882 of the Revised Code; any 8939
easement executed or granted under section 3734.22, 3734.24, 8940
3734.25, or 3734.26 of the Revised Code; any environmental 8941
covenant entered into in accordance with sections 5301.80 to 8942
5301.92 of the Revised Code; all memoranda of trust, as described 8943
in division (A) of section 5301.255 of the Revised Code, that 8944
describe specific real property; and all agreements entered into 8945
under division (A) of section 1521.26 of the Revised Code; 8946

(2) A record of mortgages, in which shall be recorded all of 8947
the following: 8948

(a) All mortgages, including amendments, supplements, 8949
modifications, and extensions of mortgages, or other instruments 8950
of writing by which lands, tenements, or hereditaments are or may 8951
be mortgaged or otherwise conditionally sold, conveyed, affected, 8952
or encumbered; 8953

(b) All executory installment contracts for the sale of land 8954
executed after September 29, 1961, that by their terms are not 8955
required to be fully performed by one or more of the parties to 8956
them within one year of the date of the contracts; 8957

(c) All options to purchase real estate, including 8958
supplements, modifications, and amendments of the options, but no 8959
option of that nature shall be recorded if it does not state a 8960
specific day and year of expiration of its validity; 8961

(d) Any tax certificate sold under section 5721.33 of the 8962
Revised Code, or memorandum of it, that is presented for filing of 8963
record. 8964

(3) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(4) A record of plats, in which shall be recorded all plats 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 8996
in the real estate covered by the option only during the period of 8997
the validity of the option as stated in the option. 8998

(C) In lieu of keeping the six separate sets of records 8999
required in divisions (A)(1) to (6) of this section and the 9000
records required in division (D) of this section, a county 9001
recorder may record all the instruments required to be recorded by 9002
this section in two separate sets of record books. One set shall 9003
be called the "official records" and shall contain the instruments 9004
listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this 9005
section. The second set of records shall contain the instruments 9006
listed in division (A)(4) of this section. 9007

(D) Except as provided in division (C) of this section, the 9008
county recorder shall keep a separate set of records containing 9009
all corrupt activity lien notices filed with the recorder pursuant 9010
to section 2923.36 of the Revised Code and a separate set of 9011
records containing all medicaid fraud lien notices filed with the 9012
recorder pursuant to section 2933.75 of the Revised Code. 9013

Sec. 317.36. (A) The county recorder shall collect the low- 9014
and moderate-income housing trust fund fee as specified in 9015
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 9016
~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 9017
6101.09, and 6115.09 of the Revised Code. The amount of any 9018
housing trust fund fee the recorder is authorized to collect is 9019
equal to the amount of any base fee the recorder is authorized to 9020
collect for services. The housing trust fund fee shall be 9021
collected in addition to the base fee. 9022

(B) The recorder shall certify the amounts collected as 9023
housing trust fund fees pursuant to division (A) of this section 9024
into the county treasury as housing trust fund fees to be paid to 9025
the treasurer of state pursuant to section 319.63 of the Revised 9026

Code. 9027

Sec. 319.20. After complying with sections 319.202, 315.251, 9028
and 319.203 of the Revised Code, and on application and 9029
presentation of title, with the affidavits required by law, or the 9030
proper order of a court, bearing the last known address of the 9031
grantee, or of any one of the grantees named in the title, and a 9032
reference to the volume and page of the recording of the next 9033
preceding recorded instrument by or through which the grantor 9034
claims title, the county auditor shall transfer any land or town 9035
lot or part thereof, minerals therein, or mineral rights thereto, 9036
charged with taxes on the tax list, from the name in which it 9037
stands into the name of the owner, when rendered necessary by a 9038
conveyance, partition, devise, descent, or otherwise. If by reason 9039
of the conveyance or otherwise, a part only of a tract or lot, 9040
minerals therein, or mineral rights thereto, as charged in the tax 9041
list, is to be transferred, the auditor shall determine the tax 9042
value of the part of a tract or lot of real estate, minerals 9043
therein, or mineral rights thereto, so transferred, and the value 9044
of the remaining part compared with the value of the whole. 9045

Whenever a part only of a tract or lot of real estate has 9046
been transferred by the auditor and ~~such~~ the tract or lot bears 9047
unpaid taxes, penalties, interest, or special assessments, the 9048
unpaid taxes, penalties, interest, or special assessments shall 9049
immediately be apportioned, upon demand or request by the 9050
transferee or remaining owner, in the following manner: 9051

(A) The auditor shall allocate to the part so transferred, 9052
and to the remaining part, amounts of any current or delinquent 9053
taxes, interest, or penalties that have accrued against the parcel 9054
as a whole, proportionate to their respective values. 9055

(B) The lien of taxes, penalties, interest, and special 9056
assessments, as levied against the original tract, shall extend to 9057

the part so transferred and the part remaining only to the extent 9058
of the amounts so allocated to the respective parts. 9059

This section does not change the total amount of taxes, 9060
special assessments, or other charges as originally levied, or the 9061
total amount of the balance due. The auditor shall certify such 9062
apportionments to the county treasurer. 9063

Whenever the state acquires an entire parcel or a part only 9064
of a parcel of real property in fee simple, the county auditor, 9065
upon application of the grantor or property owner or the state, 9066
which application shall contain a description of the property as 9067
it appears on the tax list and the date of transfer of ownership, 9068
shall prepare an estimate of the taxes that are a lien on ~~said~~ the 9069
property, but have not been determined, assessed, and levied for 9070
the year in which the property was acquired. The county auditor 9071
shall thereupon apportion ~~such~~ the estimated taxes proportionately 9072
between the grantor and the state for the period of the lien year 9073
that each had or shall have had ownership or possession of the 9074
property, whichever is earlier. The county treasurer shall accept 9075
payment from the state for estimated taxes at the time that the 9076
real property is acquired. If the state has paid in full in the 9077
year in which the property is acquired that proportion of the 9078
estimated taxes that the tax commissioner determines are not 9079
subject to remission by the county auditor for such year under 9080
division (C) of section 5713.08 of the Revised Code, the estimated 9081
taxes paid shall be considered the tax liability on the exempted 9082
property for that year. 9083

Section 319.42 of the Revised Code applies to the 9084
apportionment of special assessments. 9085

Complaint against such values as determined by the auditor or 9086
the allocation of assessments by the certifying authority may be 9087
filed by the transferee or the remaining owner, and if filed, 9088

proceedings including appeals shall be had in the manner and 9089
within the time provided by sections 5717.01 to 5717.06 and 9090
5715.19 to 5715.22 of the Revised Code, for complaints against 9091
valuation or assessment of real property. 9092

The auditor shall endorse on the deed or other evidences of 9093
title presented to the auditor that the proper transfer of the 9094
real estate described in ~~such~~ the deed has been made in the 9095
auditor's office or that it is not entered for taxation, and sign 9096
the auditor's name to ~~such~~ the deed. The address of the grantee, 9097
or any one of the grantees, set forth in the deed or other 9098
evidences of title shall be entered by the auditor on the transfer 9099
sheets and on the general tax list of real property prepared 9100
pursuant to section 319.28 of the Revised Code. 9101

Sec. 319.302. (A)(1) Real property that is not intended 9102
primarily for use in a business activity shall qualify for a 9103
partial exemption from real property taxation. For purposes of 9104
this partial exemption, "business activity" does not include 9105
farming, leasing property for farming, leasing property improved 9106
with single-family, two-family, or three-family dwellings, or 9107
holding vacant land that the county auditor determines will be 9108
used for farming or to develop single-family, two-family, or 9109
three-family dwellings. 9110

(2) Each year, the county auditor shall review each parcel of 9111
real property to determine whether it qualifies for the partial 9112
exemption provided for by this section as of the first day of 9113
January of the current tax year. 9114

(B) After complying with section 319.301 of the Revised Code, 9115
the county auditor shall reduce the remaining sums to be levied 9116
against each parcel of real property that is listed on the general 9117
tax list and duplicate of real and public utility property for the 9118
current tax year and that qualifies for partial exemption under 9119

division (A) of this section, and against each manufactured and 9120
mobile home that is taxed pursuant to division (D)(2) of section 9121
4503.06 of the Revised Code and that is on the manufactured home 9122
tax list for the current tax year, by ten per cent, to provide a 9123
partial exemption for that parcel or home. Except as otherwise 9124
provided in sections 323.152, 323.158, 505.06, and 715.263 of the 9125
Revised Code, the amount of the taxes remaining after any such 9126
reduction shall be the real and public utility property taxes 9127
charged and payable on each parcel of real property, including 9128
property that does not qualify for partial exemption under 9129
division (A) of this section, and the manufactured home tax 9130
charged and payable ~~on each property~~ manufactured or mobile home, 9131
and shall be the amounts certified to the county treasurer for 9132
collection. Upon receipt of the tax duplicate, the treasurer shall 9133
certify to the tax commissioner the total amount by which taxes 9134
were reduced under this section, as shown on the duplicate. Such 9135
reduction shall not directly or indirectly affect the 9136
determination of the principal amount of notes that may be issued 9137
in anticipation of any tax levies or the amount of bonds or notes 9138
for any planned improvements. If after application of sections 9139
5705.31 and 5705.32 of the Revised Code and other applicable 9140
provisions of law, including divisions (F) and (I) of section 9141
321.24 of the Revised Code, there would be insufficient funds for 9142
payment of debt charges on bonds or notes payable from taxes 9143
reduced by this section, the reduction of taxes provided for in 9144
this section shall be adjusted to the extent necessary to provide 9145
funds from such taxes. 9146

(C) The tax commissioner may adopt rules governing the 9147
administration of the partial exemption provided for by this 9148
section. 9149

(D) The determination of whether property qualifies for 9150
partial exemption under division (A) of this section is solely for 9151

the purpose of allowing the partial exemption under division (B) 9152
of this section. 9153

Sec. 321.24. (A) On or before the fifteenth day of February, 9154
in each year, the county treasurer shall settle with the county 9155
auditor for all taxes and assessments that the treasurer has 9156
collected on the general duplicate of real and public utility 9157
property at the time of making the settlement. 9158

(B) On or before the thirtieth day of June, in each year, the 9159
treasurer shall settle with the auditor for all advance payments 9160
of general personal and classified property taxes that the 9161
treasurer has received at the time of making the settlement. 9162

(C) On or before the tenth day of August, in each year, the 9163
treasurer shall settle with the auditor for all taxes and 9164
assessments that the treasurer has collected on the general 9165
duplicates of real and public utility property at the time of 9166
making such settlement, not included in the preceding February 9167
settlement. 9168

(D) On or before the thirty-first day of October, in each 9169
year, the treasurer shall settle with the auditor for all taxes 9170
that the treasurer has collected on the general personal and 9171
classified property duplicates, and for all advance payments of 9172
general personal and classified property taxes, not included in 9173
the preceding June settlement, that the treasurer has received at 9174
the time of making such settlement. 9175

(E) In the event the time for the payment of taxes is 9176
extended, pursuant to section 323.17 of the Revised Code, the date 9177
on or before which settlement for the taxes so extended must be 9178
made, as herein prescribed, shall be deemed to be extended for a 9179
like period of time. At each such settlement, the auditor shall 9180
allow to the treasurer, on the moneys received or collected and 9181

accounted for by the treasurer, the treasurer's fees, at the rate 9182
or percentage allowed by law, at a full settlement of the 9183
treasurer. 9184

(F) Within thirty days after the day of each settlement of 9185
taxes required under divisions (A) and (C) of this section, the 9186
treasurer shall certify to the tax commissioner any adjustments 9187
~~which~~ that have been made to the amount certified previously 9188
pursuant to section 319.302 of the Revised Code and that the 9189
settlement has been completed. Upon receipt of such certification, 9190
the commissioner shall provide for payment to the county treasurer 9191
from the general revenue fund of an amount equal to one-half of 9192
the amount certified by the treasurer in the preceding tax year 9193
under section 319.302 of the Revised Code, less one-half of the 9194
amount computed for all taxing districts in that county for the 9195
current fiscal year under section 5703.80 of the Revised Code for 9196
crediting to the property tax administration fund. Such payment 9197
shall be credited upon receipt to the county's undivided income 9198
tax fund, and the county auditor shall transfer to the county 9199
general fund from the amount thereof the total amount of all fees 9200
and charges which the auditor and treasurer would have been 9201
authorized to receive had such section not been in effect and that 9202
amount had been levied and collected as taxes. The county auditor 9203
shall distribute the amount remaining among the various taxing 9204
districts in the county as if it had been levied, collected, and 9205
settled as real property taxes. The amount distributed to each 9206
taxing district shall be reduced by the total of the amounts 9207
computed for the district under ~~divisions (A), (B), and (C) of~~ 9208
section 5703.80 of the Revised Code, but the reduction shall not 9209
exceed the amount that otherwise would be distributed to the 9210
taxing district under this division. The tax commissioner shall 9211
make available to taxing districts such information as is 9212
sufficient for a taxing district to be able to determine the 9213

amount of the reduction in its distribution under this section. 9214

(G)(1) Within thirty days after the day of the settlement 9215
required in division (D) of this section, the county treasurer 9216
shall notify the tax commissioner that the settlement has been 9217
completed. Upon receipt of that notification, the commissioner 9218
shall provide for payment to the county treasurer from the general 9219
revenue fund of an amount equal to the amount certified under 9220
former section 319.311 of the Revised Code and paid in the state's 9221
fiscal year 2003 multiplied by the percentage specified in 9222
division (G)(2) of this section. The payment shall be credited 9223
upon receipt to the county's undivided income tax fund, and the 9224
county auditor shall distribute the amount thereof among the 9225
various taxing districts of the county as if it had been levied, 9226
collected, and settled as personal property taxes. The amount 9227
received by a taxing district under this division shall be 9228
apportioned among its funds in the same proportion as the current 9229
year's personal property taxes are apportioned. 9230

(2) Payments required under division (G)(1) of this section 9231
shall be made at the following percentages of the amount certified 9232
under former section 319.311 of the Revised Code and paid under 9233
division (G)(1) of this section in the state's fiscal year 2003: 9234

(a) In fiscal year 2004, ninety per cent; 9235

(b) In fiscal year 2005, eighty per cent; 9236

(c) In fiscal year 2006, ~~seventy~~ sixty-four per cent; 9237

(d) In fiscal year 2007, ~~sixty~~ forty per cent; 9238

(e) In fiscal year 2008, ~~fifty~~ thirty-two per cent; 9239

(f) In fiscal year 2009, ~~forty~~ sixteen per cent; 9240

~~(g) In fiscal year 2010, thirty per cent;~~ 9241

~~(h) In fiscal year 2011, twenty per cent;~~ 9242

~~(i) In fiscal year 2012, ten per cent.~~ 9243

After fiscal year ~~2012~~ 2009, no payments shall be made under 9244
division (G)(1) of this section. 9245

(H)(1) On or before the fifteenth day of April each year, the 9246
county treasurer shall settle with the county auditor for all 9247
manufactured home taxes that the county treasurer has collected on 9248
the manufactured home tax duplicate at the time of making the 9249
settlement. 9250

(2) On or before the fifteenth day of September each year, 9251
the county treasurer shall settle with the county auditor for all 9252
remaining manufactured home taxes that the county treasurer has 9253
collected on the manufactured home tax duplicate at the time of 9254
making the settlement. 9255

(3) If the time for payment of such taxes is extended under 9256
section 4503.06 of the Revised Code, the time for making the 9257
settlement as prescribed by divisions (H)(1) and (2) of this 9258
section is extended for a like period of time. 9259

(I) Within thirty days after the day of each settlement of 9260
taxes required under division (H) of this section, the county 9261
treasurer shall certify to the tax commissioner any adjustments 9262
that have been made to the amount certified previously pursuant to 9263
section 319.302 of the Revised Code and that the settlement has 9264
been completed. Upon receipt of such certification, the 9265
commissioner shall provide for payment to the county treasurer 9266
from the general revenue fund of an amount equal to one-half of 9267
the amount certified by the treasurer in the current tax year 9268
under section 319.302 of the Revised Code. Such payment shall be 9269
credited upon receipt to the county's undivided income tax fund, 9270
and the county auditor shall transfer to the county general fund 9271
from the amount thereof the total amount of all fees and charges 9272
that the auditor and treasurer would have been authorized to 9273
receive had such section not been in effect and that amount had 9274

been levied and collected as taxes. The county auditor shall 9275
distribute the amount remaining among the various taxing districts 9276
in the county as if it had been levied, collected, and settled as 9277
manufactured home taxes. 9278

Sec. 323.01. Except as otherwise provided, as used in Chapter 9279
323. of the Revised Code: 9280

(A) "Subdivision" means any county, township, school 9281
district, or municipal corporation. 9282

(B) "Municipal corporation" includes charter municipalities. 9283

(C) "Taxes" means the total amount of all charges against an 9284
entry appearing on a tax list and the duplicate thereof that was 9285
prepared and certified in accordance with section 319.28 of the 9286
Revised Code, including taxes levied against real estate; taxes on 9287
property whose value is certified pursuant to section 5727.23 of 9288
the Revised Code; recoupment charges applied pursuant to section 9289
5713.35 of the Revised Code; all assessments; penalties and 9290
interest charged pursuant to section 323.121 of the Revised Code; 9291
charges added pursuant to section 319.35 of the Revised Code; and 9292
all of such charges which remain unpaid from any previous tax 9293
year. 9294

(D) "Current taxes" means all taxes charged against an entry 9295
on the general tax list and duplicate of real and public utility 9296
property that have not appeared on such list and duplicate for any 9297
prior tax year and any penalty thereon charged by division (A) of 9298
section 323.121 of the Revised Code. Current taxes, whether or not 9299
they have been certified delinquent, become delinquent taxes if 9300
they remain unpaid after the last day prescribed for payment of 9301
the second installment of current taxes without penalty. 9302

(E) "Delinquent taxes" means: 9303

(1) Any taxes charged against an entry on the general tax 9304

list and duplicate of real and public utility property that were 9305
charged against an entry on such list and duplicate for a prior 9306
tax year and any penalties and interest charged against such 9307
taxes. 9308

(2) Any current taxes charged on the general tax list and 9309
duplicate of real and public utility property that remain unpaid 9310
after the last day prescribed for payment of the second 9311
installment of such taxes without penalty, whether or not they 9312
have been certified delinquent, and any penalties and interest 9313
charged against such taxes. 9314

(F) "Current tax year" means, with respect to particular 9315
taxes, the calendar year in which the first installment of taxes 9316
is due prior to any extension granted under section 323.17 of the 9317
Revised Code. 9318

(G) "Liquidated claim" means: 9319

(1) Any sum of money due and payable, upon a written 9320
contractual obligation executed between the subdivision and the 9321
taxpayer, but excluding any amount due on general and special 9322
assessment bonds and notes; 9323

(2) Any sum of money due and payable, for disability 9324
financial assistance ~~or disability medical assistance~~ provided 9325
under Chapter 5115. of the Revised Code that is furnished to or in 9326
behalf of a subdivision, provided that such claim is recognized by 9327
a resolution or ordinance of the legislative body of such 9328
subdivision; 9329

(3) Any sum of money advanced and paid to or received and 9330
used by a subdivision, pursuant to a resolution or ordinance of 9331
such subdivision or its predecessor in interest, and the moral 9332
obligation to repay which sum, when in funds, shall be recognized 9333
by resolution or ordinance by the subdivision. 9334

Sec. 323.152. In addition to the reduction in taxes required 9335
under section 319.302 of the Revised Code, taxes shall be reduced 9336
as provided in divisions (A) and (B) of this section. 9337

(A)(1) Division (A) of this section applies to any of the 9338
following: 9339

(a) A person who is permanently and totally disabled; 9340

(b) A person who is sixty-five years of age or older; 9341

(c) A person who is the surviving spouse of a deceased person 9342
who was permanently and totally disabled or sixty-five years of 9343
age or older and who applied and qualified for a reduction in 9344
taxes under this division in the year of death, provided the 9345
surviving spouse is at least fifty-nine but not sixty-five or more 9346
years of age on the date the deceased spouse dies. 9347

(2) Real property taxes on a homestead owned and occupied, or 9348
a homestead in a housing cooperative occupied, by a person to whom 9349
division (A) of this section applies shall be reduced for each 9350
year for which the owner obtains a certificate of reduction from 9351
the county auditor under section 323.154 of the Revised Code or 9352
for which the occupant obtains a certificate of reduction in 9353
accordance with section 323.159 of the Revised Code. The reduction 9354
shall equal the amount obtained by multiplying the tax rate for 9355
the tax year for which the certificate is issued by the reduction 9356
in taxable value shown in the following schedule: 9357

Total Income	Reduce Taxable Value by the Lesser of:	
\$11,900 or less	\$5,000 or seventy-five per cent	9360
More than \$11,900 but not more than \$17,500	\$3,000 or sixty per cent	9361
More than \$17,500 but not more than \$23,000	\$1,000 or twenty-five per cent	9362

More than \$23,000 -0- 9363

(3) Each calendar year, the tax commissioner shall adjust the 9364
foregoing schedule by completing the following calculations in 9365
September of each year: 9366

(a) Determine the percentage increase in the gross domestic 9367
product deflator determined by the bureau of economic analysis of 9368
the United States department of commerce from the first day of 9369
January of the preceding calendar year to the last day of December 9370
of the preceding calendar year; 9371

(b) Multiply that percentage increase by each of the total 9372
income amounts, and by each dollar amount by which taxable value 9373
is reduced, for the current tax year; 9374

(c) Add the resulting product to each of the total income 9375
amounts, and to each of the dollar amounts by which taxable value 9376
is reduced, for the current tax year; 9377

(d)(i) Except as provided in division (A)(3)(d)(ii) of this 9378
section, round the resulting sum to the nearest multiple of one 9379
hundred dollars; 9380

(ii) If rounding the resulting sum to the nearest multiple of 9381
one hundred dollars under division (A)(3)(d)(i) of this section 9382
does not increase the dollar amounts by which taxable value is 9383
reduced, the resulting sum instead shall be rounded to the nearest 9384
multiple of ten dollars. 9385

The commissioner shall certify the amounts resulting from the 9386
adjustment to each county auditor not later than the first day of 9387
December each year. The certified amounts apply to the following 9388
tax year. The commissioner shall not make the adjustment in any 9389
calendar year in which the amounts resulting from the adjustment 9390
would be less than the total income amounts, or less than the 9391
dollar amounts by which taxable value is reduced, for the current 9392
tax year. 9393

(B) ~~Real~~ To provide a partial exemption, real property taxes 9394
on any homestead, and manufactured home taxes on any manufactured 9395
or mobile home on which a manufactured home tax is assessed 9396
pursuant to division (D)(2) of section 4503.06 of the Revised 9397
Code, shall be reduced for each year for which the owner obtains a 9398
certificate of reduction from the county auditor under section 9399
323.154 of the Revised Code. The amount of the reduction shall 9400
equal ~~one-fourth~~ two and one-half per cent of the amount ~~by which~~ 9401
~~the~~ of taxes ~~charged and payable to be levied~~ on the homestead or 9402
the manufactured or mobile home ~~are reduced for such year under~~ 9403
after applying section ~~319.302~~ 319.301 of the Revised Code. 9404

(C) The reductions granted by this section do not apply to 9405
special assessments or respread of assessments levied against the 9406
homestead, and if there is a transfer of ownership subsequent to 9407
the filing of an application for a reduction in taxes, such 9408
reductions are not forfeited for such year by virtue of such 9409
transfer. 9410

(D) The reductions in taxable value referred to in this 9411
section shall be applied solely as a factor for the purpose of 9412
computing the reduction of taxes under this section and shall not 9413
affect the total value of property in any subdivision or taxing 9414
district as listed and assessed for taxation on the tax lists and 9415
duplicates, or any direct or indirect limitations on indebtedness 9416
of a subdivision or taxing district. If after application of 9417
sections 5705.31 and 5705.32 of the Revised Code, including the 9418
allocation of all levies within the ten-mill limitation to debt 9419
charges to the extent therein provided, there would be 9420
insufficient funds for payment of debt charges not provided for by 9421
levies in excess of the ten-mill limitation, the reduction of 9422
taxes provided for in sections 323.151 to 323.159 of the Revised 9423
Code shall be proportionately adjusted to the extent necessary to 9424
provide such funds from levies within the ten-mill limitation. 9425

(E) No reduction shall be made on the taxes due on the 9426
homestead of any person convicted of violating division (C) or (D) 9427
of section 323.153 of the Revised Code for a period of three years 9428
following the conviction. 9429

Sec. 325.31. (A) On the first business day of each month, and 9430
at the end of the officer's term of office, each officer named in 9431
section 325.27 of the Revised Code shall pay into the county 9432
treasury, to the credit of the general county fund, on the warrant 9433
of the county auditor, all fees, costs, penalties, percentages, 9434
allowances, and perquisites collected by the officer's office 9435
during the preceding month or part thereof for official services, 9436
except the fees allowed the county auditor by division (B) of 9437
section 319.54 of the Revised Code, which shall be paid into the 9438
county treasury to the credit of the real estate assessment fund 9439
hereby created. 9440

(B) Moneys to the credit of the real estate assessment fund 9441
may be expended, upon appropriation by the board of county 9442
commissioners, for the purpose of defraying one or more of the 9443
following: 9444

(1) The cost incurred by the county auditor in assessing real 9445
estate pursuant to Chapter 5713. of the Revised Code and 9446
manufactured and mobile homes pursuant to Chapter 4503. of the 9447
Revised Code; 9448

(2) At the county auditor's discretion, costs and expenses 9449
incurred by the county auditor in preparing the list of real and 9450
public utility property, in administering laws related to the 9451
taxation of real property and the levying of special assessments 9452
on real property, including administering reductions under 9453
Chapters 319. and 323. and section 4503.065 of the Revised Code, 9454
and to support assessments of real property in any administrative 9455
or judicial proceeding; 9456

(3) At the county auditor's discretion, the expenses incurred 9457
by the county board of revision under Chapter 5715. of the Revised 9458
Code; 9459

(4) At the county auditor's discretion, the expenses incurred 9460
by the county auditor for geographic information systems, mapping 9461
programs, and technological advances in those or similar systems 9462
or programs; 9463

(5) At the county auditor's discretion, expenses incurred by 9464
the county auditor in compiling the general tax list of tangible 9465
personal property and administering tangible personal property 9466
taxes under Chapters 5711. and 5719. of the Revised Code; 9467

(6) At the county auditor's discretion, costs, expenses, and 9468
fees incurred by the county auditor in the administration of 9469
estate taxes under Chapter 5731. of the Revised Code and the 9470
amounts incurred under section 5731.41 of the Revised Code. 9471

Any expenditures made from the real estate assessment fund 9472
shall comply with rules that the tax commissioner adopts under 9473
division (O) of section 5703.05 of the Revised Code. Those rules 9474
shall include a requirement that a copy of any appraisal plans, 9475
progress of work reports, contracts, or other documents required 9476
to be filed with the tax commissioner shall be filed also with the 9477
board of county commissioners. 9478

The board of county commissioners shall not transfer moneys 9479
required to be deposited in the real estate assessment fund to any 9480
other fund. Following an assessment of real property pursuant to 9481
Chapter 5713. of the Revised Code, or an assessment of a 9482
manufactured or mobile home pursuant to Chapter 4503. of the 9483
Revised Code, any moneys not expended for the purpose of defraying 9484
the cost incurred in assessing real estate or manufactured or 9485
mobile homes or for the purpose of defraying the expenses 9486
described in divisions (B)(2), (3), (4), (5), and (6) of this 9487

section, and thereby remaining to the credit of the real estate
assessment fund, shall be apportioned ratably and distributed to
those taxing authorities that contributed to the fund. However, no
such distribution shall be made if the amount of such unexpended
moneys remaining to the credit of the real estate assessment fund
does not exceed five thousand dollars.

(C) None of the officers named in section 325.27 of the
Revised Code shall collect any fees from the county. Each of such
officers shall, at the end of each calendar year, make and file a
sworn statement with the board of county commissioners of all such
fees, costs, penalties, percentages, allowances, and perquisites
which have been due in the officer's office and unpaid for more
than one year prior to the date such statement is required to be
made.

Sec. 329.04. (A) The county department of job and family
services shall have, exercise, and perform the following powers
and duties:

(1) Perform any duties assigned by the state department of
job and family services regarding the provision of public family
services, including the provision of the following services to
prevent or reduce economic or personal dependency and to
strengthen family life:

(a) Services authorized by a Title IV-A program, as defined
in section 5101.80 of the Revised Code;

(b) Social services authorized by Title XX of the "Social
Security Act" and provided for by section 5101.46 or 5101.461 of
the Revised Code;

(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 9518
itself or contract with other government entities, and, pursuant 9519
to division (C) of section 2301.35 and section 2301.42 of the 9520
Revised Code, private entities, to perform the Title IV-D 9521
services. 9522

(d) Duties assigned under section 5111.98 of the Revised 9523
Code. 9524

(2) Administer disability financial assistance, as required 9525
by the state department of job and family services under section 9526
5115.03 of the Revised Code; 9527

~~(3) Administer disability medical assistance, as required by~~ 9528
~~the state department of job and family services under section~~ 9529
~~5115.13 of the Revised Code;~~ 9530

~~(4)~~ Administer burials insofar as the administration of 9531
burials was, prior to September 12, 1947, imposed upon the board 9532
of county commissioners and if otherwise required by state law; 9533

~~(5)~~(4) Cooperate with state and federal authorities in any 9534
matter relating to family services and to act as the agent of such 9535
authorities; 9536

~~(6)~~(5) Submit an annual account of its work and expenses to 9537
the board of county commissioners and to the state department of 9538
job and family services at the close of each fiscal year; 9539

~~(7)~~(6) Exercise any powers and duties relating to family 9540
services duties or workforce development activities imposed upon 9541
the county department of job and family services by law, by 9542
resolution of the board of county commissioners, or by order of 9543
the governor, when authorized by law, to meet emergencies during 9544
war or peace; 9545

~~(8)~~(7) Determine the eligibility for medical assistance of 9546
recipients of aid under Title XVI of the "Social Security Act"; 9547

~~(9)~~(8) If assigned by the state director of job and family services under section 5101.515 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II;

~~(10)~~(9) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;

~~(11)~~(10) For the purpose of complying with a fiscal agreement the board of county commissioners enters into under section 307.98 of the Revised Code, exercise the powers and perform the duties the fiscal agreement assigns to the county department;

~~(12)~~(11) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.

(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce 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 9578
services shall make voter registration applications as prescribed 9579
by the secretary of state under section 3503.10 of the Revised 9580
Code available to persons who are applying for, receiving 9581
assistance from, or participating in any of the following: 9582

(A) The disability financial assistance program established 9583
under Chapter 5115. of the Revised Code; 9584

~~(B) The disability medical assistance program established 9585
under Chapter 5115. of the Revised Code; 9586~~

~~(C)~~ The medical assistance program established under Chapter 9587
5111. of the Revised Code; 9588

~~(D)~~(C) The Ohio works first program established under Chapter 9589
5107. of the Revised Code; 9590

~~(E)~~(D) The prevention, retention, and contingency program 9591
established under Chapter 5108. of the Revised Code. 9592

Sec. 339.72. (A) Each board of county commissioners shall 9593
provide for the county to be served by a tuberculosis control unit 9594
by designating a county tuberculosis control unit or by entering 9595
into an agreement with one or more boards of county commissioners 9596
of other counties under which the boards jointly designate a 9597
district tuberculosis control unit. The entity designated as the 9598
county or district tuberculosis control unit may be any of the 9599
following: 9600

(1) A communicable disease control program operated by a 9601
board of health of a city or general health district pursuant to 9602
section 3709.22 of the Revised Code; 9603

~~(2) A tuberculosis program operated by a county that receives 9604
funds pursuant to section 339.77 of the Revised Code; 9605~~

~~(3)~~ A tuberculosis clinic established by a board of county 9606

commissioners pursuant to section 339.76 of the Revised Code; 9607

~~(4)~~(3) A hospital that provides tuberculosis clinic services 9608
under a contract with a board of county commissioners pursuant to 9609
section 339.75 of the Revised Code. 9610

(B) The entity designated under division (A) of this section 9611
as the tuberculosis control unit shall accept that designation and 9612
fulfill its duties as the tuberculosis control unit specified 9613
under sections 339.71 to 339.89 of the Revised Code. 9614

Sec. 339.88. The expenses incurred for detention under 9615
section 339.86 or 339.87 of the Revised Code shall be paid by the 9616
individual detained or if the individual is indigent, by the board 9617
of county commissioners of the county from which the individual 9618
was removed. ~~The board of county commissioners may apply to the 9619
director of health for reimbursement under section 339.77 of the 9620
Revised Code for expenses of detaining indigent individuals with 9621
tuberculosis.~~ 9622

Sec. 340.03. (A) Subject to rules issued by the director of 9623
mental health after consultation with relevant constituencies as 9624
required by division (A)(11) of section 5119.06 of the Revised 9625
Code, with regard to mental health services, the board of alcohol, 9626
drug addiction, and mental health services shall: 9627

(1) Serve as the community mental health planning agency for 9628
the county or counties under its jurisdiction, and in so doing it 9629
shall: 9630

(a) Evaluate the need for facilities and community mental 9631
health services; 9632

(b) In cooperation with other local and regional planning and 9633
funding bodies and with relevant ethnic organizations, assess the 9634
community mental health needs, set priorities, and develop plans 9635
for the operation of facilities and community mental health 9636

services;

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(c) In accordance with guidelines issued by the director of
mental health after consultation with board representatives,
develop and submit to the department of mental health, no later
than six months prior to the conclusion of the fiscal year in
which the board's current plan is scheduled to expire, a community
mental health plan listing community mental health needs,
including the needs of all residents of the district now residing
in state mental institutions and severely mentally disabled
adults, children, and adolescents; all children subject to a
determination made pursuant to section 121.38 of the Revised Code;
and all the facilities and community mental health services that
are or will be in operation or provided during the period for
which the plan will be in operation in the service district to
meet such needs.

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The plan shall include, but not be limited to, a statement of
which of the services listed in section 340.09 of the Revised Code
the board intends to provide or purchase, an explanation of how
the board intends to make any payments that it may be required to
pay under section 5119.62 of the Revised Code, a statement of the
inpatient and community-based services the board proposes that the
department operate, an assessment of the number and types of
residential facilities needed, and such other information as the
department requests, and a budget for moneys the board expects to
receive. The board shall also submit an allocation request for
state and federal funds. Within sixty days after the department's
determination that the plan and allocation request are complete,
the department shall approve or disapprove the plan and request,
in whole or in part, according to the criteria developed pursuant
to section 5119.61 of the Revised Code. The department's statement
of approval or disapproval shall specify the inpatient and the
community-based services that the department will operate for the

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board. Eligibility for financial support shall be contingent upon 9669
an approved plan or relevant part of a plan. 9670

If the director disapproves all or part of any plan, the 9671
director shall inform the board of the reasons for the disapproval 9672
and of the criteria that must be met before the plan may be 9673
approved. The director shall provide the board an opportunity to 9674
present its case on behalf of the plan. The director shall give 9675
the board a reasonable time in which to meet the criteria, and 9676
shall offer the board technical assistance to help it meet the 9677
criteria. 9678

If the approval of a plan remains in dispute thirty days 9679
prior to the conclusion of the fiscal year in which the board's 9680
current plan is scheduled to expire, the board or the director may 9681
request that the dispute be submitted to a mutually agreed upon 9682
third-party mediator with the cost to be shared by the board and 9683
the department. The mediator shall issue to the board and the 9684
department recommendations for resolution of the dispute. Prior to 9685
the conclusion of the fiscal year in which the current plan is 9686
scheduled to expire, the director, taking into consideration the 9687
recommendations of the mediator, shall make a final determination 9688
and approve or disapprove the plan, in whole or in part. 9689

If a board determines that it is necessary to amend a plan or 9690
an allocation request that has been approved under division 9691
(A)(1)(c) of this section, the board shall submit a proposed 9692
amendment to the director. The director may approve or disapprove 9693
all or part of the amendment. If the director does not approve all 9694
or part of the amendment within thirty days after it is submitted, 9695
the amendment or part of it shall be considered to have been 9696
approved. The director shall inform the board of the reasons for 9697
disapproval of all or part of an amendment and of the criteria 9698
that must be met before the amendment may be approved. The 9699
director shall provide the board an opportunity to present its 9700

case on behalf of the amendment. The director shall give the board 9701
a reasonable time in which to meet the criteria, and shall offer 9702
the board technical assistance to help it meet the criteria. 9703

The board shall implement the plan approved by the 9704
department. 9705

(d) Receive, compile, and transmit to the department of 9706
mental health applications for state reimbursement; 9707

(e) Promote, arrange, and implement working agreements with 9708
social agencies, both public and private, and with judicial 9709
agencies. 9710

(2) Investigate, or request another agency to investigate, 9711
any complaint alleging abuse or neglect of any person receiving 9712
services from a community mental health agency as defined in 9713
section 5122.01 of the Revised Code, or from a residential 9714
facility licensed under section 5119.22 of the Revised Code. If 9715
the investigation substantiates the charge of abuse or neglect, 9716
the board shall take whatever action it determines is necessary to 9717
correct the situation, including notification of the appropriate 9718
authorities. Upon request, the board shall provide information 9719
about such investigations to the department. 9720

(3) For the purpose of section 5119.611 of the Revised Code, 9721
cooperate with the director of mental health in visiting and 9722
evaluating whether the services of a community mental health 9723
agency satisfy the certification standards established by rules 9724
adopted under that section; 9725

(4) In accordance with criteria established under division 9726
(G) of section 5119.61 of the Revised Code, review and evaluate 9727
the quality, effectiveness, and efficiency of services provided 9728
through its community mental health plan and submit its findings 9729
and recommendations to the department of mental health; 9730

(5) In accordance with section 5119.22 of the Revised Code, 9731
review applications for residential facility licenses and 9732
recommend to the department of mental health approval or 9733
disapproval of applications; 9734

(6) Audit, in accordance with rules adopted by the auditor of 9735
state pursuant to section 117.20 of the Revised Code, at least 9736
annually all programs and services provided under contract with 9737
the board. In so doing, the board may contract for or employ the 9738
services of private auditors. A copy of the fiscal audit report 9739
shall be provided to the director of mental health, the auditor of 9740
state, and the county auditor of each county in the board's 9741
district. 9742

(7) Recruit and promote local financial support for mental 9743
health programs from private and public sources; 9744

(8)(a) Enter into contracts with public and private 9745
facilities for the operation of facility services included in the 9746
board's community mental health plan and enter into contracts with 9747
public and private community mental health agencies for the 9748
provision of community mental health services listed in section 9749
340.09 of the Revised Code and included in the board's community 9750
mental health plan. Contracts with community mental health 9751
agencies are subject to section 5119.611 of the Revised Code. 9752
Section 307.86 of the Revised Code does not apply to contracts 9753
entered into under this division. In contracting with a community 9754
mental health agency, a board shall consider the cost 9755
effectiveness of services provided by that agency and the quality 9756
and continuity of care, and may review cost elements, including 9757
salary costs, of the services to be provided. A utilization review 9758
process shall be established as part of the contract for services 9759
entered into between a board and a community mental health agency. 9760
The board may establish this process in a way that is most 9761
effective and efficient in meeting local needs. In the case of a 9762

contract with a community mental health facility, as defined in 9763
section ~~5111.022~~ 5111.023 of the Revised Code, to provide services 9764
listed in division (B) of that section, the contract shall provide 9765
for the facility to be paid in accordance with the contract 9766
entered into between the departments of job and family services 9767
and mental health under section 5111.91 of the Revised Code and 9768
any rules adopted under division (A) of section 5119.61 of the 9769
Revised Code. 9770

If either the board or a facility or community mental health 9771
agency with which the board contracts under division (A)(8)(a) of 9772
this section proposes not to renew the contract or proposes 9773
substantial changes in contract terms, the other party shall be 9774
given written notice at least one hundred twenty days before the 9775
expiration date of the contract. During the first sixty days of 9776
this one hundred twenty-day period, both parties shall attempt to 9777
resolve any dispute through good faith collaboration and 9778
negotiation in order to continue to provide services to persons in 9779
need. If the dispute has not been resolved sixty days before the 9780
expiration date of the contract, either party may notify the 9781
department of mental health of the unresolved dispute. The 9782
director may require both parties to submit the dispute to a third 9783
party with the cost to be shared by the board and the facility or 9784
community mental health agency. The third party shall issue to the 9785
board, the facility or agency, and the department recommendations 9786
on how the dispute may be resolved twenty days prior to the 9787
expiration date of the contract, unless both parties agree to a 9788
time extension. The director shall adopt rules establishing the 9789
procedures of this dispute resolution process. 9790

(b) With the prior approval of the director of mental health, 9791
a board may operate a facility or provide a community mental 9792
health service as follows, if there is no other qualified private 9793
or public facility or community mental health agency that is 9794

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 9826
satisfaction that the person or other government entity cannot 9827
effectively operate the facility or that the person or other 9828
government entity has requested the board to take over operation 9829
of the facility. The director shall not give a board approval to 9830
provide a community mental health service previously provided by a 9831
community mental health agency unless the board has established to 9832
the director's satisfaction that the agency cannot effectively 9833
provide the service or that the agency has requested the board 9834
take over providing the service. 9835

The director shall review and evaluate a board's operation of 9836
a facility and provision of community mental health service under 9837
division (A)(8)(b) of this section. 9838

Nothing in division (A)(8)(b) of this section authorizes a 9839
board to administer or direct the daily operation of any facility 9840
or community mental health agency, but a facility or agency may 9841
contract with a board to receive administrative services or staff 9842
direction from the board under the direction of the governing body 9843
of the facility or agency. 9844

(9) Approve fee schedules and related charges or adopt a unit 9845
cost schedule or other methods of payment for contract services 9846
provided by community mental health agencies in accordance with 9847
guidelines issued by the department as necessary to comply with 9848
state and federal laws pertaining to financial assistance; 9849

(10) Submit to the director and the county commissioners of 9850
the county or counties served by the board, and make available to 9851
the public, an annual report of the programs under the 9852
jurisdiction of the board, including a fiscal accounting; 9853

(11) Establish, to the extent resources are available, a 9854
community support system, which provides for treatment, support, 9855
and rehabilitation services and opportunities. The essential 9856

elements of the system include, but are not limited to, the 9857
following components in accordance with section 5119.06 of the 9858
Revised Code: 9859

(a) To locate persons in need of mental health services to 9860
inform them of available services and benefits mechanisms; 9861

(b) Assistance for clients to obtain services necessary to 9862
meet basic human needs for food, clothing, shelter, medical care, 9863
personal safety, and income; 9864

(c) Mental health care, including, but not limited to, 9865
outpatient, partial hospitalization, and, where appropriate, 9866
inpatient care; 9867

(d) Emergency services and crisis intervention; 9868

(e) Assistance for clients to obtain vocational services and 9869
opportunities for jobs; 9870

(f) The provision of services designed to develop social, 9871
community, and personal living skills; 9872

(g) Access to a wide range of housing and the provision of 9873
residential treatment and support; 9874

(h) Support, assistance, consultation, and education for 9875
families, friends, consumers of mental health services, and 9876
others; 9877

(i) Recognition and encouragement of families, friends, 9878
neighborhood networks, especially networks that include racial and 9879
ethnic minorities, churches, community organizations, and 9880
meaningful employment as natural supports for consumers of mental 9881
health services; 9882

(j) Grievance procedures and protection of the rights of 9883
consumers of mental health services; 9884

(k) Case management, which includes continual individualized 9885

assistance and advocacy to ensure that needed services are offered 9886
and procured. 9887

(12) Designate the treatment program, agency, or facility for 9888
each person involuntarily committed to the board pursuant to 9889
Chapter 5122. of the Revised Code and authorize payment for such 9890
treatment. The board shall provide the least restrictive and most 9891
appropriate alternative that is available for any person 9892
involuntarily committed to it and shall assure that the services 9893
listed in section 340.09 of the Revised Code are available to 9894
severely mentally disabled persons residing within its service 9895
district. The board shall establish the procedure for authorizing 9896
payment for services, which may include prior authorization in 9897
appropriate circumstances. The board may provide for services 9898
directly to a severely mentally disabled person when life or 9899
safety is endangered and when no community mental health agency is 9900
available to provide the service. 9901

(13) Establish a method for evaluating referrals for 9902
involuntary commitment and affidavits filed pursuant to section 9903
5122.11 of the Revised Code in order to assist the probate 9904
division of the court of common pleas in determining whether there 9905
is probable cause that a respondent is subject to involuntary 9906
hospitalization and what alternative treatment is available and 9907
appropriate, if any; 9908

(14) Ensure that apartments or rooms built, subsidized, 9909
renovated, rented, owned, or leased by the board or a community 9910
mental health agency have been approved as meeting minimum fire 9911
safety standards and that persons residing in the rooms or 9912
apartments are receiving appropriate and necessary services, 9913
including culturally relevant services, from a community mental 9914
health agency. This division does not apply to residential 9915
facilities licensed pursuant to section 5119.22 of the Revised 9916
Code. 9917

(15) Establish a mechanism for involvement of consumer 9918
recommendation and advice on matters pertaining to mental health 9919
services in the alcohol, drug addiction, and mental health service 9920
district; 9921

(16) Perform the duties under section 3722.18 of the Revised 9922
Code required by rules adopted under section 5119.61 of the 9923
Revised Code regarding referrals by the board or mental health 9924
agencies under contract with the board of individuals with mental 9925
illness or severe mental disability to adult care facilities and 9926
effective arrangements for ongoing mental health services for the 9927
individuals. The board is accountable in the manner specified in 9928
the rules for ensuring that the ongoing mental health services are 9929
effectively arranged for the individuals. 9930

(B) The board shall establish such rules, operating 9931
procedures, standards, and bylaws, and perform such other duties 9932
as may be necessary or proper to carry out the purposes of this 9933
chapter. 9934

(C) A board of alcohol, drug addiction, and mental health 9935
services may receive by gift, grant, devise, or bequest any 9936
moneys, lands, or property for the benefit of the purposes for 9937
which the board is established, and may hold and apply it 9938
according to the terms of the gift, grant, or bequest. All money 9939
received, including accrued interest, by gift, grant, or bequest 9940
shall be deposited in the treasury of the county, the treasurer of 9941
which is custodian of the alcohol, drug addiction, and mental 9942
health services funds to the credit of the board and shall be 9943
available for use by the board for purposes stated by the donor or 9944
grantor. 9945

(D) No board member or employee of a board of alcohol, drug 9946
addiction, and mental health services shall be liable for injury 9947
or damages caused by any action or inaction taken within the scope 9948

of the board member's official duties or the employee's 9949
employment, whether or not such action or inaction is expressly 9950
authorized by this section, section 340.033, or any other section 9951
of the Revised Code, unless such action or inaction constitutes 9952
willful or wanton misconduct. Chapter 2744. of the Revised Code 9953
applies to any action or inaction by a board member or employee of 9954
a board taken within the scope of the board member's official 9955
duties or employee's employment. For the purposes of this 9956
division, the conduct of a board member or employee shall not be 9957
considered willful or wanton misconduct if the board member or 9958
employee acted in good faith and in a manner that the board member 9959
or employee reasonably believed was in or was not opposed to the 9960
best interests of the board and, with respect to any criminal 9961
action or proceeding, had no reasonable cause to believe the 9962
conduct was unlawful. 9963

(E) The meetings held by any committee established by a board 9964
of alcohol, drug addiction, and mental health services shall be 9965
considered to be meetings of a public body subject to section 9966
121.22 of the Revised Code. 9967

Sec. 340.16. Not later than ninety days after ~~the effective~~ 9968
~~date of this section~~ September 5, 2001, the department of mental 9969
health and the department of job and family services shall adopt 9970
rules that establish requirements and procedures for prior 9971
notification and service coordination between public children 9972
services agencies and boards of alcohol, drug addiction, and 9973
mental health services when a public children services agency 9974
refers a child in its custody to a board for services funded by 9975
the board. The rules shall be adopted in accordance with Chapter 9976
119. of the Revised Code. 9977

The department of mental health and department of job and 9978
family services shall collaborate in formulating a plan that 9979

delineates the funding responsibilities of public children 9980
services agencies and boards of alcohol, drug addiction, and 9981
mental health services for services provided under section 9982
~~5111.022~~ 5111.023 of the Revised Code to children in the custody 9983
of public children services agencies. The departments shall 9984
complete the plan not later than ninety days after ~~the effective~~ 9985
~~date of this section~~ September 5, 2001. 9986

Sec. 341.192. (A) As used in this section: 9987

(1) "Medical assistance program" has the same meaning as in 9988
section 2913.40 of the Revised Code. 9989

(2) "Medical provider" means a physician, hospital, 9990
laboratory, pharmacy, or other health care provider that is not 9991
employed by or under contract to a county or the department of 9992
rehabilitation and correction to provide medical services to 9993
persons confined in the county jail or a state correctional 9994
institution. 9995

(3) "Necessary care" means medical care of a nonelective 9996
nature that cannot be postponed until after the period of 9997
confinement of a person who is confined in a county jail or a 9998
state correctional institution or is in the custody of a law 9999
enforcement officer without endangering the life or health of the 10000
person. 10001

(B) If a physician employed by or under contract to a county 10002
or the department of rehabilitation and correction to provide 10003
medical services to persons confined in the county jail or state 10004
correctional institution determines that a person who is confined 10005
in the county jail or a state correctional institution or who is 10006
in the custody of a law enforcement officer prior to the person's 10007
confinement in the county jail or a state correctional institution 10008
requires necessary care that the physician cannot provide, the 10009

necessary care shall be provided by a medical provider. The county 10010
or the department of rehabilitation and correction shall pay a 10011
medical provider for necessary care an amount not exceeding the 10012
authorized reimbursement rate for the same service established by 10013
the department of job and family services under the medical 10014
assistance program. 10015

Sec. 731.14. All contracts made by the legislative authority 10016
of a village shall be executed in the name of the village and 10017
signed on its behalf by the mayor and clerk. Except where the 10018
contract is for equipment, services, materials, or supplies to be 10019
purchased under division (D) of section 713.23 or section 125.04 10020
or 5513.01 of the Revised Code ~~or~~, available from a qualified 10021
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 10022
Revised Code, or required to be purchased from a qualified 10023
nonprofit agency under sections 125.60 to 125.6012 of the Revised 10024
Code, when any expenditure, other than the compensation of persons 10025
employed in the village, exceeds twenty-five thousand dollars, 10026
such contracts shall be in writing and made with the lowest and 10027
best bidder after advertising for not less than two nor more than 10028
four consecutive weeks in a newspaper of general circulation 10029
within the village. The bids shall be opened and shall be publicly 10030
read by the clerk of the village or a person designated by the 10031
clerk at the time, date, and place specified in the advertisement 10032
to bidders or specifications. The time, date, and place of bid 10033
openings may be extended to a later date by the legislative 10034
authority of the village, provided that written or oral notice of 10035
the change shall be given to all persons who have received or 10036
requested specifications no later than ninety-six hours prior to 10037
the original time and date fixed for the opening. This section 10038
does not apply to those villages that have provided for the 10039
appointment of a village administrator under section 735.271 of 10040
the Revised Code. 10041

Sec. 731.141. In those villages that have established the 10042
position of village administrator, as provided by section 735.271 10043
of the Revised Code, the village administrator shall make 10044
contracts, purchase supplies and materials, and provide labor for 10045
any work under the administrator's supervision involving not more 10046
than twenty-five thousand dollars. When an expenditure, other than 10047
the compensation of persons employed by the village, exceeds 10048
twenty-five thousand dollars, the expenditure shall first be 10049
authorized and directed by ordinance of the legislative authority 10050
of the village. When so authorized and directed, except where the 10051
contract is for equipment, services, materials, or supplies to be 10052
purchased under division (D) of section 713.23 or section 125.04 10053
or 5513.01 of the Revised Code ~~or~~, available from a qualified 10054
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 10055
Revised Code, or required to be purchased from a qualified 10056
nonprofit agency under sections 125.60 to 125.6012 of the Revised 10057
Code, the village administrator shall make a written contract with 10058
the lowest and best bidder after advertisement for not less than 10059
two nor more than four consecutive weeks in a newspaper of general 10060
circulation within the village. The bids shall be opened and shall 10061
be publicly read by the village administrator or a person 10062
designated by the village administrator at the time, date, and 10063
place as specified in the advertisement to bidders or 10064
specifications. The time, date, and place of bid openings may be 10065
extended to a later date by the village administrator, provided 10066
that written or oral notice of the change shall be given to all 10067
persons who have received or requested specifications no later 10068
than ninety-six hours prior to the original time and date fixed 10069
for the opening. All contracts shall be executed in the name of 10070
the village and signed on its behalf by the village administrator 10071
and the clerk. 10072

The legislative authority of a village may provide, by 10073

ordinance, for central purchasing for all offices, departments, 10074
divisions, boards, and commissions of the village, under the 10075
direction of the village administrator, who shall make contracts, 10076
purchase supplies or materials, and provide labor for any work of 10077
the village in the manner provided by this section. 10078

Sec. 742.59. The board of trustees of the Ohio police and 10079
fire pension fund shall be the trustee of the funds created as 10080
follows: 10081

(A) The "police officers' contribution fund" is the fund in 10082
which shall be credited the contributions deducted from the 10083
salaries of members of police departments and paid into the Ohio 10084
police and fire pension fund, as provided by section 742.31 of the 10085
Revised Code, and that percentage of the employers' accrued 10086
liability that is attributable to deductions previously made from 10087
the salaries of members of the police department who are still in 10088
the active service at the time that portion of the employers' 10089
accrued liability is paid. The accumulated contributions of a 10090
member of a police department shall be transferred at the member's 10091
retirement from the police officers' contribution fund to the 10092
police officers' pension reserve fund. 10093

(B) The "firefighters' contribution fund" is the fund in 10094
which shall be credited contributions deducted from the salaries 10095
of members of fire departments and paid into the Ohio police and 10096
fire pension fund, as provided by section 742.31 of the Revised 10097
Code, and that percentage of the employers' accrued liability that 10098
is attributable to deductions previously made from the salaries of 10099
members of the fire department who are still in the active service 10100
at the time that portion of the employers' accrued liability is 10101
paid. The accumulated contributions of a member of a fire 10102
department shall be transferred at the member's retirement from 10103
the firefighters' contribution fund to the firefighters' pension 10104

reserve fund. 10105

(C) The "police officer employers' contribution fund" is the 10106
fund to which the following shall be credited: 10107

(1) The police officer employers' contribution, as provided 10108
by section 742.33 of the Revised Code, ~~and that;~~ 10109

(2) The percentage of the employers' accrued liability that 10110
is attributable to the employers' liability for prior service of 10111
members of the police department who are still in the active 10112
service at the time that portion of the employers' accrued 10113
liability is paid, ~~and that portion of the state contribution~~ 10114
~~allocated to such fund, as provided by section 742.36 of the~~ 10115
~~Revised Code, shall be credited, and in which shall be~~ 10116
~~accumulated.~~ 10117

In the police officer employers' contribution fund shall 10118
accumulate the reserves held in trust for the payment of all 10119
pensions or other benefits provided by sections 742.01 to 742.61 10120
of the Revised Code to members of a police department retiring in 10121
the future or their qualified beneficiaries and from which the 10122
reserves for such pensions and other benefits shall be transferred 10123
to the police officers' pension reserve fund. 10124

(D) The "firefighter employers' contribution fund" is the 10125
fund to which the following shall be credited: 10126

(1) The firefighter employers' contribution, as provided in 10127
section 742.34 of the Revised Code, ~~and that;~~ 10128

(2) The percentage of the employers' accrued liability that 10129
is attributable to the employers' liability for prior service for 10130
members of the fire department who are still in the active service 10131
at the time that portion of the employers' accrued liability is 10132
paid, ~~and that portion of the state contribution allocated to such~~ 10133
~~fund, as provided by section 742.36 of the Revised Code, shall be~~ 10134

~~credited, and in which shall be accumulated.~~ 10135

In the firefighter employers' contribution fund shall 10136
accumulate the reserves held in trust for the payment of all 10137
pensions and other benefits provided by sections 742.01 to 742.61 10138
of the Revised Code to members of a fire department retiring in 10139
the future or their qualified beneficiaries and from which the 10140
reserves for such pensions and other benefits shall be transferred 10141
to the firefighters' pension reserve fund. 10142

(E) The "police officers' pension reserve fund" is the fund 10143
from which shall be paid all pensions and other benefits for which 10144
reserves have been transferred from the police officers' 10145
contribution fund and the police officer employers' contribution 10146
fund, and to which shall be credited that percentage of the 10147
employers' accrued liability that is attributable to the total of 10148
deductions previously made from the salaries of members of the 10149
police department who are retired and are receiving pensions or 10150
other benefits, or whose beneficiaries are receiving benefits, at 10151
the time that portion of the employers' accrued liability is paid, 10152
and that percentage of the employers' accrued liability that is 10153
attributable to prior service of members of the police department 10154
who are retired and are receiving pensions or other benefits, or 10155
whose beneficiaries are receiving benefits, at the time that 10156
portion of the employers' accrued liability is paid. 10157

(F) The "firefighters' pension reserve fund" is the fund from 10158
which shall be paid all pensions and other benefits for which 10159
reserves have been transferred from the firefighters' contribution 10160
fund and the firefighter employers' contribution fund, and to 10161
which shall be credited that percentage of the employers' accrued 10162
liability that is attributable to the total of deductions 10163
previously made from the salaries of members of the fire 10164
department who are retired and are receiving pensions or other 10165
benefits, or whose beneficiaries are receiving benefits, at the 10166

time that portion of the employers' accrued liability is paid, and 10167
that percentage of the employers' accrued liability that is 10168
attributable to prior service of members of the fire department 10169
who are retired and are receiving pensions or other benefits, or 10170
whose beneficiaries are receiving benefits, at the time that 10171
portion of the employers' accrued liability is paid. 10172

(G) The "guarantee fund" is the fund from which interest is 10173
transferred and credited on the amounts in the funds described in 10174
divisions (C), (D), (E), and (F) of this section, and is a 10175
contingent fund from which the special requirements of said funds 10176
may be paid by transfer from this fund. All income derived from 10177
the investment of funds by the board of trustees of the Ohio 10178
police and fire pension fund as trustee under section 742.11 of 10179
the Revised Code, together with all gifts and bequests or the 10180
income therefrom, shall be paid into this fund. 10181

Any deficit occurring in any other fund that will not be 10182
covered by payments to that fund, as otherwise provided by 10183
sections 742.01 to 742.61 of the Revised Code, shall be paid by 10184
transfers of amounts from the guarantee fund to such fund or 10185
funds. Should the amount in the guarantee fund be insufficient at 10186
any time to meet the amounts payable therefrom, the amount of such 10187
deficiency, with regular interest, shall be paid by an additional 10188
employer rate of current contribution as determined by the actuary 10189
and shall be approved by the board of trustees of the Ohio police 10190
and fire pension fund, and the amount of such additional employer 10191
contribution shall be credited to the guarantee fund. 10192

The board may accept gifts and bequests. Any funds that may 10193
come into the possession of the board in this manner, or any other 10194
funds whose disposition is not otherwise provided for, shall be 10195
credited to the guarantee fund. 10196

(H) The "expense fund" is the fund from which shall be paid 10197

the expenses for the administration and management of the Ohio
police and fire pension fund, as provided by sections 742.01 to
742.61 of the Revised Code, and to which shall be credited from
the guarantee fund an amount sufficient to pay the expenses of
operation.

Sec. 901.43. (A) The director of agriculture may authorize
any department of agriculture laboratory to perform a laboratory
service for any person, organization, political subdivision, state
agency, federal agency, or other entity, whether public or
private. The director shall adopt and enforce rules to provide for
the rendering of a laboratory service.

(B) The director may charge a reasonable fee for the
performance of a laboratory service, except when the service is
performed on an official sample taken by the director acting
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the
Revised Code; by a board of health acting as the licensor of
retail food establishments or food service operations under
Chapter 3717. of the Revised Code; or by the director of health
acting as the licensor of food service operations under Chapter
3717. of the Revised Code. The director of agriculture shall adopt
rules specifying what constitutes an official sample.

The director shall publish a list of laboratory services
offered, together with the fee for each service.

(C) The director may enter into a contract with any person,
organization, political subdivision, state agency, federal agency,
or other entity for the provision of a laboratory service.

(D)(1) The director may adopt rules establishing standards
for accreditation of laboratories and laboratory services and in
doing so may adopt by reference existing or recognized standards
or practices.

(2) The director may inspect and accredit laboratories and 10228
laboratory services, and may charge a reasonable fee for the 10229
inspections and accreditation. 10230

(E)(1) ~~All~~ There is hereby created in the state treasury the 10231
animal health and food safety fund. Moneys from the following 10232
sources shall be deposited into the state treasury to the credit 10233
of the fund: all moneys collected by the director under this 10234
section that are from fees generated by a laboratory service 10235
performed by the department and related to the diseases of 10236
animals, ~~and~~ all moneys so collected that are from fees generated 10237
for the inspection and accreditation of laboratories and 10238
laboratory services related to the diseases of animals, ~~shall be~~ 10239
~~deposited in the animal industry laboratory fund, which is hereby~~ 10240
~~created in the state treasury. The director shall use the moneys~~ 10241
~~in the animal industry laboratory fund to pay the expenses~~ 10242
~~necessary to operate the animal industry laboratory, including the~~ 10243
~~purchase of supplies and equipment.~~ 10244

~~(2)~~ all moneys collected by the director under this 10245
section that are from fees generated by a laboratory service 10246
performed by the consumer analytical laboratory, and all moneys so 10247
collected that are from fees generated for the inspection and 10248
accreditation of laboratories and laboratory services not related 10249
to weights and measures ~~or the diseases of animals, shall be~~ 10250
~~deposited in the laboratory services fund, which is hereby created~~ 10251
~~in the state treasury. The director may use the moneys held in the~~ 10252
fund ~~may be used~~ to pay the expenses necessary to operate the 10253
animal industry laboratory and the consumer analytical laboratory, 10254
including the purchase of supplies and equipment. 10255

~~(3)~~(2) All moneys collected by the director under this 10256
section that are from fees generated by a laboratory service 10257
performed by the weights and measures laboratory, and all moneys 10258
so collected that are from fees generated for the inspection and 10259

accreditation of laboratories and laboratory services related to 10260
weights and measures, shall be deposited in the state treasury to 10261
the credit of the weights and measures laboratory fund, which is 10262
hereby created in the state treasury. The moneys held in the fund 10263
may be used to pay the expenses necessary to operate the division 10264
of weights and measures, including the purchase of supplies and 10265
equipment. 10266

Sec. 901.44. There is hereby created in the state treasury 10267
the laboratory and administrative support fund. The department of 10268
agriculture shall deposit the following moneys received by the 10269
department to the credit of the fund: payment for the rental of 10270
the department's auditoriums by outside parties and reimbursement 10271
for related utility expenses, laboratory fees that are not 10272
designated for deposit into another fund, and other miscellaneous 10273
moneys that are not designated for deposit into another fund. The 10274
department may use moneys in the fund to pay costs associated with 10275
any program of the department as the director of agriculture sees 10276
fit. 10277

Sec. 903.05. (A) Each application for a permit to install or 10278
permit to operate a concentrated animal feeding facility that is 10279
submitted by an applicant who has not operated a concentrated 10280
animal feeding facility in this state for at least two of the five 10281
years immediately preceding the submission of the application 10282
shall be accompanied by all of the following: 10283

(1) A listing of all ~~concentrated~~ animal feeding facilities 10284
that the owner or operator of the proposed new or modified 10285
concentrated animal feeding facility has operated or is operating 10286
in this state; 10287

(2) A listing of the ~~concentrated~~ animal feeding facilities 10288
that the owner or operator has operated or is operating elsewhere 10289

in the United States and that are regulated under the Federal 10290
Water Pollution Control Act together with a listing of the 10291
~~concentrated~~ animal feeding facilities that the owner or operator 10292
has operated or is operating outside the United States; 10293

(3) A listing of all administrative enforcement orders issued 10294
to the owner or operator, all civil actions in which the owner or 10295
operator was determined by the trier of fact to be liable in 10296
damages or was the subject of injunctive relief or another type of 10297
civil relief, and all criminal actions in which the owner or 10298
operator pleaded guilty or was convicted, during the five years 10299
immediately preceding the submission of the application, in 10300
connection with any violation of the federal Water Pollution 10301
Control Act, the "Safe Drinking Water Act," as defined in section 10302
6109.01 of the Revised Code, or any other applicable state laws 10303
pertaining to environmental protection that was alleged to have 10304
occurred or to be occurring at any ~~concentrated~~ animal feeding 10305
facility that the owner or operator has operated or is operating 10306
in the United States or with any violation of the environmental 10307
laws of another country that was alleged to have occurred or to be 10308
occurring at any ~~concentrated~~ animal feeding facility that the 10309
owner or operator has operated or is operating outside the United 10310
States. 10311

The lists of ~~concentrated~~ animal feeding facilities operated 10312
by the owner or operator within or outside this state or outside 10313
the United States shall include, respectively, all such facilities 10314
operated by the owner or operator during the five-year period 10315
immediately preceding the submission of the application. 10316

(B) If the applicant for a permit to install or permit to 10317
operate has been involved in any prior activity involving the 10318
operation of a ~~concentrated~~ an animal feeding facility, the 10319
director of agriculture may deny the application if the director 10320
finds from the application, the information submitted under 10321

divisions (A)(1) to (3) of this section, pertinent information 10322
submitted to the director, and other pertinent information 10323
obtained by the director at the director's discretion that the 10324
applicant and persons associated with the applicant, in the 10325
operation of ~~concentrated~~ animal feeding facilities, have a 10326
history of substantial noncompliance with the Federal Water 10327
Pollution Control Act, the "Safe Drinking Water Act," as defined 10328
in section 6109.01 of the Revised Code, any other applicable state 10329
laws pertaining to environmental protection, or the environmental 10330
laws of another country that indicates that the applicant lacks 10331
sufficient reliability, expertise, and competence to operate the 10332
proposed new or modified concentrated animal feeding facility in 10333
substantial compliance with this chapter and rules adopted under 10334
it. 10335

(C) A person who seeks to acquire a concentrated animal 10336
feeding facility that has been issued an installation permit that 10337
has been transferred from the director of environmental protection 10338
to the director of agriculture, a permit to install, or a permit 10339
to operate shall submit to the director the information specified 10340
in divisions (A)(1) to (3) of this section prior to the transfer 10341
of the permit. The permit shall not be transferred as otherwise 10342
provided in division (I) of section 903.09 of the Revised Code if 10343
the director finds from the information submitted under divisions 10344
(A)(1) to (3) of this section, pertinent information submitted to 10345
the director, and other pertinent information obtained by the 10346
director at the director's discretion that the person, in the 10347
operation of ~~concentrated~~ animal feeding facilities, has a history 10348
of substantial noncompliance with the Federal Water Pollution 10349
Control Act, the "Safe Drinking Water Act," as defined in section 10350
6109.01 of the Revised Code, any other applicable state laws 10351
pertaining to environmental protection, or the environmental laws 10352
of another country that indicates that the person lacks sufficient 10353
reliability, expertise, and competence to operate the concentrated 10354

animal feeding facility in substantial compliance with this 10355
chapter and rules adopted under it. 10356

Sec. 905.32. (A) No person shall manufacture or distribute in 10357
this state any type of fertilizer until a license to manufacture 10358
or distribute has been obtained by the manufacturer or distributor 10359
from the department of agriculture upon payment of a five dollar 10360
fee: 10361

(1) For each fixed (permanent) location at which fertilizer 10362
is manufactured in this state; 10363

(2) For each mobile unit used to manufacture fertilizer in 10364
this state; 10365

(3) For each location out of the state from which fertilizer 10366
is distributed in this state to nonlicensees. 10367

All licenses ~~expire on the thirtieth day of June of each~~ 10368
shall be valid for one year beginning on the first day of December 10369
of a calendar year through the thirtieth day of November of the 10370
following calendar year. A renewal application for a license shall 10371
be submitted ~~no earlier than the first day of June each year and~~ 10372
no later than the thirtieth day of ~~June~~ November each year. A 10373
person who submits a renewal application for a license after the 10374
thirtieth day of ~~June~~ November shall include with the application 10375
a late filing fee of ten dollars. 10376

(B) An application for license shall include: 10377

(1) The name and address of the licensee; 10378

(2) The name and address of each bulk distribution point in 10379
the state, not licensed for fertilizer manufacture and 10380
distribution. 10381

The name and address shown on the license shall be shown on 10382
all labels, pertinent invoices, and bulk storage for fertilizers 10383
distributed by the licensee in this state. 10384

(C) The licensee shall inform the director of agriculture in writing of additional distribution points established during the period of the license.

Sec. 905.33. (A) Except as provided in division (C) of this section, no person shall distribute in this state a specialty fertilizer until it is registered by the manufacturer or distributor with the department of agriculture. An application, in duplicate, for each brand and product name of each grade of specialty fertilizer shall be made on a form furnished by the director of agriculture and shall be accompanied with a fee of fifty dollars for each brand and product name of each grade. Labels for each brand and product name of each grade shall accompany the application. Upon the approval of an application by the director, a copy of the registration shall be furnished the applicant. All registrations ~~expire on the thirtieth day of June of each~~ shall be valid for one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year.

(B) An application for registration shall include the following:

(1) Name and address of the manufacturer or distributor;

(2) The brand and product name;

(3) The grade;

(4) The guaranteed analysis;

(5) The package sizes for persons that package fertilizers only in containers of ten pounds or less.

(C)(1) No person who engages in the business of applying custom mixed fertilizer to lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall be required to register the custom mixed

fertilizer as a specialty fertilizer in accordance with division 10415
(A) of this section if the fertilizer ingredients of the custom 10416
mixed fertilizer are registered as specialty fertilizers and the 10417
inspection fee described in division (A) of section 905.36 of the 10418
Revised Code is paid. 10419

(2) No person who engages in the business of blending custom 10420
mixed fertilizer for use on lawns, golf courses, recreation areas, 10421
or other real property that is not used for agricultural 10422
production shall be required to register the custom mixed 10423
fertilizer as a specialty fertilizer in accordance with division 10424
(A) of this section if the facility holds a nonagricultural 10425
production custom mixed fertilizer blender license issued under 10426
section 905.331 of the Revised Code. 10427

(D) A person who engages in the business of applying or 10428
blending custom mixed fertilizer as described in division (C) of 10429
this section shall maintain an original or a copy of an invoice or 10430
document of sale for all fertilizer the person applies or 10431
distributes for one year following the date of the application or 10432
distribution, and, upon the director's request, shall furnish the 10433
director with the invoice or document of sale for the director's 10434
review. 10435

Sec. 905.331. No person who engages in the business of 10436
blending a custom mixed fertilizer for use on lawns, golf courses, 10437
recreation areas, or other real property that is not used for 10438
agricultural production shall fail to register a specialty 10439
fertilizer in accordance with division (A) of section 905.33 of 10440
the Revised Code unless the person has obtained a an annual 10441
nonagricultural production custom mixed fertilizer blender license 10442
from the director of agriculture. 10443

A license issued under this section shall be valid from the 10444
first day of December of a calendar year through the thirtieth day 10445

of November of the following calendar year. A renewal application 10446
for a nonagricultural production custom mixed fertilizer blender 10447
license shall be submitted to the director ~~no earlier than the~~ 10448
~~first day of June each year and~~ no later than the thirtieth day of 10449
~~June~~ November each year and shall include the name and address of 10450
the applicant and of the premises where the blending occurs and a 10451
one-hundred-dollar fee. A person who submits a renewal application 10452
for a license after the thirtieth day of ~~June~~ November shall 10453
include with the application a late filing fee of ten dollars. All 10454
nonagricultural production custom mixed fertilizer blender 10455
licenses expire on the thirtieth day of ~~June~~ of November each 10456
year. 10457

A person holding a nonagricultural production custom mixed 10458
fertilizer blender license shall pay the inspection fees described 10459
in division (A) of section 905.36 of the Revised Code for each 10460
product being blended. 10461

Sec. 905.36. (A) A licensee or registrant, except registrants 10462
who package specialty fertilizers only in containers of ten pounds 10463
or less, shall pay the director of agriculture for all fertilizers 10464
distributed in this state an inspection fee at the rate of ~~twelve~~ 10465
twenty-five cents per ton or ~~thirteen~~ twenty-eight cents per 10466
metric ton. Licensees and registrants shall specify on an invoice 10467
whether the per ton inspection fee has been paid or whether 10468
payment of the fee is the responsibility of the purchaser of the 10469
fertilizer. The payment of this inspection fee by a licensee or 10470
registrant shall exempt all other persons from the payment of this 10471
fee. 10472

(B) Every licensee or registrant shall file a ~~semiannual~~ 10473
~~statement~~ with the director an annual tonnage report that includes 10474
the number of net tons or metric tons of fertilizer distributed to 10475
nonlicensees or nonregistrants in this state by grade; packaged; 10476

bulk, dry or liquid; ~~within thirty days after the thirtieth day of~~ 10477
~~June, and within thirty days after the thirty first day of~~ 10478
~~December, respectively, of.~~ The report shall be filed on or before 10479
the thirtieth day of November of each calendar year and shall 10480
include data from the period beginning on the first day of 10481
November of the year preceding the year in which the report is due 10482
through the thirty-first day of October of the year in which the 10483
report is due. The licensee or registrant, except registrants who 10484
package specialty fertilizers only in containers of ten pounds or 10485
less, shall include with this statement the inspection fee at the 10486
rate stated in division (A) of this section. For a tonnage report 10487
that is not filed or payment of inspection fees that is not made 10488
~~within ten days after due date~~ on or before the thirtieth day of 10489
November of the applicable calendar year, a penalty of fifty 10490
dollars or ten per cent of the amount due, whichever is greater, 10491
shall be assessed against the licensee or registrant. The amount 10492
of fees due, plus penalty, shall constitute a debt and become the 10493
basis of a judgment against the licensee or registrant. For 10494
tonnage reports found to be incorrect, a penalty of fifteen per 10495
cent of the amount due shall be assessed against the licensee or 10496
registrant and shall constitute a debt and become the basis of a 10497
judgment against the licensee or registrant. 10498

(C) No information furnished under this section shall be 10499
disclosed by any employee of the department of agriculture in such 10500
a way as to divulge the operation of any person required to make 10501
such a report. The filing by a licensee or registrant of a sales 10502
volume tonnage statement required by division (B) of this section 10503
thereby grants permission to the director to verify the same with 10504
the records of the licensee or registrant. 10505

Sec. 905.37. (A) The director of agriculture ~~shall~~ may 10506
distribute annual statements of fertilizer sales by grades of 10507
materials and mixed fertilizer by counties, in a manner prescribed 10508

by the director. 10509

(B) The director ~~shall~~ may publish ~~at least~~ annually a report 10510
of the analysis of fertilizers inspected. 10511

(C) The director may distribute a state fertilizer usage 10512
report by grade of materials and mixed fertilizers for each month. 10513

Sec. 905.38. The commercial feed, fertilizer, seed, and lime 10514
inspection and laboratory fund is hereby created in the state 10515
treasury. All moneys collected by the director of agriculture 10516
under sections 905.31 to 905.50 of the Revised Code, shall be 10517
deposited into the fund. Moneys credited to the fund under this 10518
section and sections 905.66, 907.16, and 923.46 of the Revised 10519
Code shall be used for administering and enforcing this chapter 10520
and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules 10521
adopted under them. 10522

Sec. 905.381. The director of agriculture shall keep accurate 10523
accounts of all receipts and disbursements from the commercial 10524
feed, fertilizer, seed, and lime inspection and laboratory fund, 10525
and shall prepare, and provide upon request, an annual report 10526
classifying the receipts and disbursements as pertaining to either 10527
feed, fertilizer, seed, or lime. 10528

Sec. 905.50. If the director of agriculture has taken an 10529
official sample of a fertilizer or mixed fertilizer and determined 10530
that it constitutes mislabeled fertilizer pursuant to rules 10531
adopted under section 905.40 of the Revised Code, the person who 10532
labeled the fertilizer or mixed fertilizer shall pay a penalty to 10533
the consumer of the mislabeled fertilizer or, if the consumer 10534
cannot be determined with reasonable diligence or is not 10535
available, to the director for deposit into the commercial feed, 10536
fertilizer, seed, and lime inspection and laboratory fund created 10537
under section 905.38 of the Revised Code. The amount of the 10538

penalty shall be calculated in accordance with either division (A) 10539
or (B) of this section, whichever method of calculation yields the 10540
largest amount. 10541

(A)(1) A penalty required to be paid under this section may 10542
be calculated as follows: 10543

(a) Five dollars for each percentage point of total nitrogen 10544
or phosphorus in the fertilizer that is below the percentage of 10545
nitrogen or phosphorus guaranteed on the label, multiplied by the 10546
number of tons of mislabeled fertilizer that have been sold to the 10547
consumer; 10548

(b) Three dollars for each percentage point of potash in the 10549
fertilizer that is below the percentage of potash guaranteed on 10550
the label, multiplied by the number of tons of mislabeled 10551
fertilizer that have been sold to the consumer. 10552

(2) In the case of a fertilizer that contains a quantity of 10553
nitrogen, phosphorus, or potash that is more than five percentage 10554
points below the percentages guaranteed on the label, the 10555
penalties calculated under division (A)(1) of this section shall 10556
be tripled. 10557

(3) No penalty calculated under division (A) of this section 10558
shall be less than twenty-five dollars. 10559

(B) A penalty required to be paid under this section may be 10560
calculated by multiplying the market value of one unit of the 10561
mislabeled fertilizer by the number of units of the mislabeled 10562
fertilizer that have been sold to the consumer. 10563

(C) Upon making a determination under this section that a 10564
person has mislabeled fertilizer or mixed fertilizer, the director 10565
shall determine the parties to whom the penalty imposed by this 10566
section is required to be paid and, in accordance with division 10567
(A) or (B) of this section, as applicable, shall calculate the 10568
amount of the penalty required to be paid to each such party. 10569

After completing those determinations and calculations, the 10570
director shall issue to the person who allegedly mislabeled the 10571
fertilizer or mixed fertilizer a notice of violation. The notice 10572
shall be accompanied by an order requiring, and specifying the 10573
manner of, payment of the penalty imposed by this section to the 10574
parties in the amounts set forth in the determinations and 10575
calculations required by this division. The order shall be issued 10576
in accordance with Chapter 119. of the Revised Code. 10577

No person shall violate a term or condition of an order 10578
issued under this division. 10579

Sec. 905.501. (A) As used in this section, ~~"political:~~ 10580

(1) "Political subdivision" means a county, township, or 10581
municipal corporation and any other body corporate and politic 10582
that is responsible for government activities in a geographic area 10583
smaller than that of the state. 10584

(2) "Local legislation" includes, but is not limited to, an 10585
ordinance, resolution, regulation, rule, motion, or amendment that 10586
is enacted or adopted by a political subdivision. 10587

(B)(1) No political subdivision shall regulate the 10588
registration, packaging, labeling, sale, storage, distribution, 10589
use, or application of fertilizer, or require a person licensed or 10590
registered under sections 905.31 to 905.99 of the Revised Code to 10591
obtain a license or permit to operate in a manner described in 10592
those sections, or to satisfy any other condition except as 10593
provided by a statute or rule of this state or of the United 10594
States. 10595

(2) No political subdivision shall enact, adopt, or continue 10596
in effect local legislation relating to the registration, 10597
packaging, labeling, sale, storage, distribution, use, or 10598
application of fertilizers. 10599

Sec. 905.66. All moneys collected by the director of 10600
agriculture under sections 905.51 to 905.65 of the Revised Code 10601
shall be deposited into the commercial feed, fertilizer, seed, and 10602
lime inspection and laboratory fund created under section 905.38 10603
of the Revised Code. 10604

The director shall prepare and provide a report concerning 10605
the fund in accordance with section 905.381 of the Revised Code. 10606

Sec. 907.111. (A) The department of agriculture has sole and 10607
exclusive authority to regulate the registration, labeling, sale, 10608
storage, transportation, distribution, notification of use, use, 10609
and planting of seed within the state. The regulation of seed is a 10610
matter of general statewide interest that requires uniform 10611
statewide regulation, and this chapter and rules adopted under it 10612
constitute a comprehensive plan with respect to all aspects of the 10613
regulation of seed within this state. 10614

(B) No political subdivision shall do any of the following: 10615

(1) Regulate the registration, labeling, sale, storage, 10616
transportation, distribution, notification of use, use, or 10617
planting of seed; 10618

(2) Require a person who has been issued a permit or license 10619
under this chapter to obtain a permit or license to operate in a 10620
manner described in this chapter or to satisfy any other condition 10621
except as provided by a statute or rule of this state or of the 10622
United States; 10623

(3) Require a person who has registered a legume inoculant 10624
under this chapter to register that inoculant in a manner 10625
described in this chapter or to satisfy any other condition except 10626
as provided by a statute or rule of this state or of the United 10627
States. 10628

(C) No political subdivision shall enact, adopt, or continue 10629
in effect local legislation relating to the permitting or 10630
licensure of any person who is required to obtain a permit or 10631
license under this chapter or to the registration, labeling, sale, 10632
storage, transportation, distribution, notification of use, use, 10633
or planting of seed. 10634

(D) As used in this section, "political subdivision" and 10635
"local legislation" have the same meanings as in section 905.501 10636
of the Revised Code. 10637

Sec. 907.16. All money collected by the director of 10638
agriculture under sections 907.01 to 907.17 of the Revised Code 10639
shall be deposited into the treasury of the state to the credit of 10640
the commercial feed, fertilizer, seed, and lime inspection and 10641
laboratory fund, which is hereby created in the state treasury. 10642
~~Money credited to the fund shall be used to administer and enforce~~ 10643
~~those sections and rules adopted under them~~ section 905.38 of the 10644
Revised Code. 10645

Sec. 911.02. Each person, firm, partnership, or corporation 10646
that owns or operates a bakery shall register each bakery that it 10647
owns or operates with the director of agriculture. For the 10648
registration, the owner or operator of each bakery shall pay an 10649
annual fee of ~~thirty~~ sixty dollars for a production capacity of 10650
one thousand pounds of bakery product per hour or less and an 10651
annual fee of ~~thirty~~ sixty dollars for each one thousand pounds of 10652
bakery product per hour capacity, or part thereof, in excess of 10653
one thousand pounds of bakery product per hour. 10654

Any person who owns or operates a home bakery with only one 10655
oven, in a stove of ordinary home kitchen design and located in a 10656
home, used for the baking of baked goods to be sold, shall pay a 10657
sum of ~~ten~~ twenty dollars annually for registration regardless of 10658

the capacity of the home bakery oven. The registration shall be 10659
renewed annually by the thirtieth day of September and shall be 10660
renewed according to the standard renewal procedure of Chapter 10661
4745. of the Revised Code. The registration of the bakery shall 10662
show the location, including municipal corporation, street, and 10663
number, the name of the owner, and the name of the operator. The 10664
application for registration shall be made on a form prescribed 10665
and provided by the director. All moneys received from 10666
registration fees and fines collected under sections 911.01 to 10667
911.20 of the Revised Code shall be deposited with the treasurer 10668
of state to the credit of the food safety fund created in section 10669
915.24 of the Revised Code. All annual renewal registration fees 10670
required by this section shall be paid by the applicant for the 10671
renewal to the treasurer of state for deposit into the food safety 10672
fund. 10673

No bakery product that is manufactured in an out-of-state 10674
bakery shall be sold or offered for sale within this state unless 10675
the bakery is in compliance with sections 911.01 to 911.20 of the 10676
Revised Code, and is registered, having paid the annual 10677
registration fee. 10678

Registration of out-of-state bakeries is not required if a 10679
reciprocal agreement is in effect whereby a bakery located in this 10680
state is not subject to a license or registration fee by the 10681
receiving state or a political subdivision thereof. 10682

Sec. 913.02. No person, firm, or corporation shall engage in 10683
the business of operating a cannery without obtaining a license 10684
for the operation of each cannery from the director of 10685
agriculture. 10686

In order to obtain a license, an application shall be made on 10687
a form prescribed by the director and shall be accompanied by a 10688
fee of ~~one~~ two hundred dollars. The director shall thereupon cause 10689

an investigation to be made. If the applicant is supplied with the facilities necessary for complying with sections 913.01 to 913.05 of the Revised Code and rules adopted under them, a license shall be issued and shall be effective until the thirtieth day of June, and shall become invalid on that date unless renewed. The fee for each renewal is ~~one~~ two hundred dollars. License fees and renewal fees shall be deposited to the credit of the food safety fund created in section 915.24 of the Revised Code.

The director may suspend or revoke any license for failure to comply with sections 913.01 to 913.05 of the Revised Code, or any rule or order adopted under those sections. In such event, the cannery immediately shall cease operation.

Sec. 913.23. (A) The director of agriculture may issue licenses as required by sections 913.22 to 913.28 of the Revised Code, may make the inspections and registrations required by those sections, and may prescribe the form of application to be filed under this section.

(B) No person shall manufacture or bottle for sale within this state any soft drink in closed containers unless the person has a license issued by the director. Upon receipt of an application for such a license, the director shall examine the products and the place of manufacture where the business is to be conducted, to determine whether the products and place comply with sections 913.22 to 913.28 of the Revised Code. Upon finding there is compliance, and upon payment of a license fee of ~~one~~ two hundred dollars, the director shall issue a license authorizing the applicant to manufacture or bottle for sale such soft drinks, subject to sections 913.22 to 913.28 of the Revised Code. The license shall expire on the last day of March of each year unless renewed.

(C) No soft drink that is manufactured or bottled out of the

state shall be sold or offered for sale within this state unless 10721
the soft drink and the plant in which the soft drink is 10722
manufactured or bottled are found by the director to comply with 10723
sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are 10724
registered by the director, which shall be upon a like application 10725
as provided in division (B) of this section. 10726

An annual registration fee of ~~one~~ two hundred dollars shall 10727
be paid to the director by each applicant under this division. The 10728
registration shall be renewed annually, and the registration fee 10729
paid with the application for annual renewal. 10730

Registration of out-of-state soft drink manufacturers or 10731
bottlers or syrup and extract manufacturers is not required if a 10732
reciprocal agreement is in effect whereby a soft drink 10733
manufacturer or bottler or syrup and extract manufacturer located 10734
in this state is not subject to a license or registration fee by 10735
another state or a political subdivision thereof. 10736

(D) No person, other than a manufacturer or bottler holding a 10737
soft drink plant license under this section, shall sell, offer for 10738
sale, use, or have in the person's possession with intent to sell, 10739
any soda water syrup or extract or soft drink syrup, to be used in 10740
making, drawing, or dispensing soda water or other soft drinks, 10741
without first registering the person's name and address, the name 10742
and address of the manufacturer of the syrup or extract, the 10743
number and variety of such syrups or extracts intended to be sold, 10744
and the trade name or brand of those products, with the director, 10745
together with such samples of the syrups or extracts as the 10746
director requests for analysis. The person also shall pay to the 10747
department of agriculture at the time of making registration a 10748
license fee of ~~fifty~~ one hundred dollars. No license shall be 10749
granted by the director unless the director determines that the 10750
syrup or extract is free from all harmful drugs and other 10751
ingredients that, as used, may be injurious to health. The 10752

registration shall be renewed annually upon like terms. If any 10753
manufacturer, bottler, agent, or seller is licensed or has 10754
registered the manufacturer's, bottler's, agent's, or seller's 10755
name and product as required by this section and has paid the 10756
manufacturer's, bottler's, agent's, or seller's fee, the 10757
manufacturer's, bottler's, agent's, or seller's distributor, 10758
retail agent, or retail seller using the products shall not be 10759
required to pay that fee. This section does not apply to local 10760
sellers of soft drinks as to syrups and extracts made by 10761
themselves for their own use exclusively. 10762

(E) All moneys received under sections 913.22 to 913.28 of 10763
the Revised Code shall be deposited with the treasurer of state to 10764
the credit of the food safety fund created in section 915.24 of 10765
the Revised Code. 10766

(F) The director may revoke any license or registration 10767
issued under sections 913.22 to 913.28 of the Revised Code, 10768
whenever the director determines that those sections have been 10769
violated. When a license has been revoked, the licensee shall 10770
discontinue the manufacture and sale of soft drinks or other 10771
products for which the license was issued. When a registration has 10772
been revoked, the registrant shall discontinue the sale within 10773
this state of the registrant's products until those sections have 10774
been complied with and a new license or registration has been 10775
issued. The director may suspend any such license or registration 10776
temporarily, pending compliance with such conditions required by 10777
those sections as the director prescribes. 10778

Sec. 915.02. No person, firm, or corporation shall operate a 10779
cold-storage warehouse, for hire, without a license issued by the 10780
director of agriculture. ~~Such~~ A license shall be issued only on 10781
written application stating the location of ~~such~~ the warehouse. 10782
Upon receipt of the application the director shall cause an 10783

examination to be made into the sanitary conditions of ~~such~~ the 10784
warehouse. If it is found to be in a sanitary condition and 10785
properly equipped for the purpose of cold storage, the director 10786
shall cause a license to be issued authorizing the applicant to 10787
operate a warehouse. No license shall be issued until the 10788
applicant has paid to the director the sum of ~~one~~ two hundred 10789
dollars. ~~Such~~ A license shall be valid until the last day of March 10790
of each year and becomes invalid on that date unless renewed. A 10791
license shall be required for each separate warehouse building. 10792

Sec. 915.16. The license fee for an establishment is 10793
~~twenty-five~~ fifty dollars. Any operator operating in connection 10794
with a cold-storage warehouse holding a license under section 10795
915.02 of the Revised Code is not required to secure an additional 10796
license under section 915.15 of the Revised Code so long as ~~he~~ the 10797
operator continues to be licensed as a cold-storage warehouse; but 10798
~~he~~ the operator shall comply with sections 915.14 to 915.24~~7~~ 10799
~~inclusive~~, of the Revised Code, and all rules and regulations 10800
promulgated thereunder. The license issued shall be in such form 10801
as the department of agriculture prescribes. Licenses shall be 10802
valid until the last day of November following initial issuance or 10803
renewal and shall become invalid on that date unless renewed. The 10804
original license or a certified copy thereof shall be 10805
conspicuously displayed by the operator in the establishment. 10806

Sec. 915.24. (A) There is hereby created in the state 10807
treasury the food safety fund. All of the following moneys shall 10808
be credited to the fund: 10809

(1) Bakery registration fees and fines received under 10810
sections 911.02 to 911.20 of the Revised Code; 10811

(2) Cannery license fees and renewal fees received under 10812
sections 913.01 to 913.05 of the Revised Code; 10813

(3) Moneys received under sections 913.22 to 913.28 of the Revised Code;	10814 10815
(4) License fees, fines, and penalties recovered for the violation of sections 915.01 to 915.12 of the Revised Code;	10816 10817
(5) License fees collected under sections 915.14 to 915.23 of the Revised Code;	10818 10819
(6) License fees, other fees, and fines collected by or for the director of agriculture under Chapter 3717. of the Revised Code;	10820 10821 10822
<u>(7) Fees collected under section 3715.04 of the Revised Code for the issuance of certificates of health and freesale.</u>	10823 10824
(B) The director of agriculture shall use the moneys deposited into the food safety fund to administer and enforce the laws pursuant to which the moneys were collected.	10825 10826 10827
Sec. 921.02. (A) No person shall distribute a pesticide within this state unless the pesticide is registered with the director of agriculture under this chapter. Registrations shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under this chapter, or if the pesticide is distributed under the provisions of an experimental use permit issued under section 921.03 of the Revised Code or an experimental use permit issued by the United States environmental protection agency.	10828 10829 10830 10831 10832 10833 10834 10835 10836 10837 10838 10839 10840
(B) The applicant for registration of a pesticide shall file a statement with the director on a form provided by the director, which shall include all of the following:	10841 10842 10843

- (1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name; 10844
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- (2) The brand and product name of the pesticide; 10847
- (3) Any necessary information required for completion of the department of agriculture's application for registration, including the agency registration number; 10848
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- (4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the federal act. 10851
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- (C) The director, when the director considers it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients. 10855
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- (D) The director may require a full description of the tests made and the results thereof upon which the claims are based for any pesticide. The director shall not consider any data submitted in support of an application, without permission of the applicant, in support of any other application for registration unless the other applicant first has offered to pay reasonable compensation for producing the test data to be relied upon and the data are not protected from disclosure by section 921.04 of the Revised Code. In the case of a renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last registered. 10859
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- (E) The director may require any other information to be submitted with an application. 10871
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- Any applicant may designate any portion of the required 10873

10874 registration information as a trade secret or confidential
10875 business information. Upon receipt of any required registration
10876 information designated as a trade secret or confidential business
10877 information, the director shall consider the designated
10878 information as confidential and shall not reveal or cause to be
10879 revealed any such designated information without the consent of
10880 the applicants, except to persons directly involved in the
10881 registration process described in this section or as required by
10882 law.

10883 (F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay
10884 a registration and inspection fee ~~established by rule of one~~
10885 hundred fifty dollars for each product name and brand registered
10886 for the company whose name appears on the label. If an applicant
10887 files for a renewal of registration after the deadline established
10888 by rule, the applicant shall pay a penalty fee ~~established by rule~~
10889 of seventy-five dollars for each product name and brand registered
10890 for the applicant. The penalty fee shall be added to the original
10891 fee and paid before the renewal registration is issued. In
10892 addition to any other remedy available under this chapter, if a
10893 pesticide that is not registered pursuant to this section is
10894 distributed within this state, the person required to register the
10895 pesticide shall do so and shall pay a penalty fee ~~established by~~
10896 rule of seventy-five dollars for each product name and brand
10897 registered for the applicant. The penalty fee shall be added to
10898 the original fee of one hundred fifty dollars and paid before the
10899 registration is issued.

10900 (G) Provided that the state is authorized by the
10901 administrator of the United States environmental protection agency
10902 to register pesticides to meet special local needs, the director
10903 shall require the information set forth under divisions (B), (C),
10904 (D), and (E) of this section and shall register any such pesticide
10905 after determining that all of the following conditions are met:

(1) Its composition is such as to warrant the proposed claims	10906
for it.	10907
(2) Its labeling and other material required to be submitted	10908
comply with the requirements of the federal act and of this	10909
chapter, and rules adopted thereunder.	10910
(3) It will perform its intended function without	10911
unreasonable adverse effects on the environment.	10912
(4) When used in accordance with widespread and commonly	10913
recognized practice, it will not generally cause unreasonable	10914
adverse effects on the environment.	10915
(5) The classification for general or restricted use is in	10916
conformity with the federal act.	10917
The director shall not make any lack of essentiality a	10918
criterion for denying the registration of any pesticide. When two	10919
pesticides meet the requirements of division (G) of this section,	10920
the director shall not register one in preference to the other.	10921
(H)(1) The director may refuse to register a pesticide if the	10922
application for registration fails to comply with this section.	10923
(2) The director may suspend or revoke a pesticide	10924
registration after a hearing in accordance with Chapter 119. of	10925
the Revised Code for a pesticide that fails to meet the claims	10926
made for it on its label.	10927
(3) The director may immediately suspend a pesticide	10928
registration, prior to a hearing, when the director believes that	10929
the pesticide poses an immediate hazard to human or animal health	10930
or a hazard to the environment. Not later than fifteen days after	10931
suspending the registration, the director shall determine whether	10932
the pesticide poses such a hazard. If the director determines that	10933
no hazard exists, the director shall lift the suspension of the	10934
registration. If the director determines that a hazard exists, the	10935

director shall revoke the registration in accordance with Chapter 10936
119. of the Revised Code. 10937

Sec. 921.16. (A) The director of agriculture shall adopt 10938
rules the director determines necessary for the effective 10939
enforcement and administration of this chapter. The rules may 10940
relate to, but are not limited to, the time, place, manner, and 10941
methods of application, materials, and amounts and concentrations 10942
of application of pesticides, may restrict or prohibit the use of 10943
pesticides in designated areas during specified periods of time, 10944
and shall encompass all reasonable factors that the director 10945
determines necessary to minimize or prevent damage to the 10946
environment. In addition, the rules shall establish the ~~fees,~~ 10947
~~deadlines,~~ and time periods for registration, registration 10948
renewal, late registration renewal, and failure to register under 10949
section 921.02 of the Revised Code; the fees for registration, 10950
registration renewal, late registration renewal, and failure to 10951
register under section 921.02 of the Revised Code that shall apply 10952
until the fees that are established under that section take effect 10953
on January 1, 2007; and the fees, deadlines, and time periods for 10954
licensure and license renewal under sections 921.06, 921.09, 10955
921.11, and 921.13 of the Revised Code. ~~The aggregate amount of~~ 10956
~~the fees that initially are established by rule after the~~ 10957
~~effective date of this amendment shall be designed to cover, but~~ 10958
~~not exceed, the costs incurred by the department of agriculture in~~ 10959
~~administering this chapter. Thereafter, the fees shall not be~~ 10960
~~increased without the approval of the general assembly.~~ 10961

(B) The director shall adopt rules that establish a schedule 10962
of civil penalties for violations of this chapter, or any rule or 10963
order adopted or issued under it, provided that the civil penalty 10964
for a first violation shall not exceed five thousand dollars and 10965
the civil penalty for each subsequent violation shall not exceed 10966

ten thousand dollars. In determining the amount of a civil penalty 10967
for a violation, the director shall consider factors relevant to 10968
the severity of the violation, including past violations and the 10969
amount of actual or potential damage to the environment or to 10970
human beings. 10971

(C) The director shall adopt rules that set forth the 10972
conditions under which the director: 10973

(1) Requires that notice or posting be given of a proposed 10974
application of a pesticide; 10975

(2) Requires inspection, condemnation, or repair of equipment 10976
used to apply a pesticide; 10977

(3) Will suspend, revoke, or refuse to issue any pesticide 10978
registration for a violation of this chapter; 10979

(4) Requires safe handling, transportation, storage, display, 10980
distribution, and disposal of pesticides and their containers; 10981

(5) Ensures the protection of the health and safety of 10982
agricultural workers storing, handling, or applying pesticides, 10983
and all residents of agricultural labor camps, as that term is 10984
defined in section 3733.41 of the Revised Code, who are living or 10985
working in the vicinity of pesticide-treated areas; 10986

(6) Requires a record to be kept of all pesticide 10987
applications made by each commercial applicator and by any trained 10988
serviceperson acting under the commercial applicator's direct 10989
supervision and of all restricted use pesticide applications made 10990
by each private applicator and by any immediate family member or 10991
subordinate employee of that private applicator who is acting 10992
under the private applicator's direct supervision as required 10993
under section 921.14 of the Revised Code; 10994

(7) Determines the pesticide-use categories of diagnostic 10995
inspections that must be conducted by a commercial applicator; 10996

(8) Requires a record to be kept of all diagnostic inspections conducted by each commercial applicator and by any trained service person.

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(D) The director shall prescribe standards for the licensure of applicators of pesticides consistent with those prescribed by the federal act and the regulations adopted under it or prescribe standards that are more restrictive than those prescribed by the federal act and the regulations adopted under it. The standards may relate to the use of a pesticide or to an individual's pesticide-use category.

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The director shall take into consideration standards of the United States environmental protection agency.

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(E) The director may adopt rules setting forth the conditions under which the director will:

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(1) Collect and examine samples of pesticides or devices;

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(2) Specify classes of devices that shall be subject to this chapter;

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(3) Prescribe other necessary registration information.

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(F) The director may adopt rules that do either or both of the following:

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(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;

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(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

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the use of pesticide in the various pesticide-use categories. 11027
Based on consideration of the factors, the director may define 11028
"acting under the instructions and control of a commercial 11029
applicator" to include communications between a commercial 11030
applicator and a trained serviceperson that are conducted via 11031
landline telephone or a means of wireless communication. Any rules 11032
adopted under division (F)(2) of this section shall be drafted in 11033
consultation with representatives of the pesticide industry. 11034

(G) Except as provided in division (D) of this section, the 11035
director shall not adopt any rule under this chapter that is 11036
inconsistent with the requirements of the federal act and 11037
regulations adopted thereunder. 11038

(H) The director, after notice and opportunity for hearing, 11039
may declare as a pest any form of plant or animal life, other than 11040
human beings and other than bacteria, viruses, and other 11041
microorganisms on or in living human beings or other living 11042
animals, that is injurious to health or the environment. 11043

(I) The director may make reports to the United States 11044
environmental protection agency, in the form and containing the 11045
information the agency may require. 11046

(J) The director shall adopt rules for the application, use, 11047
storage, and disposal of pesticides if, in the director's 11048
judgment, existing programs of the United States environmental 11049
protection agency necessitate such rules or pesticide labels do 11050
not sufficiently address issues or situations identified by the 11051
department of agriculture or interested state agencies. 11052

(K) The director shall adopt rules establishing all of the 11053
following: 11054

(1) Standards, requirements, and procedures for the 11055
examination and re-examination of commercial applicators and 11056
private applicators; 11057

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(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;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson.

(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code.

Sec. 923.44. (A)(1) Except as otherwise provided in divisions (A)(2), (3), and (4) of this section, the first distributor of a commercial feed shall pay the director of agriculture a semiannual inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with a minimum payment of ~~ten~~ twenty-five dollars, on all commercial feeds distributed by ~~him~~ the first distributor in this state.

(2) The semiannual inspection fee required under division (A)(1) of this section shall not be paid by the first distributor of a commercial feed if the distribution is made to an exempt buyer who shall be responsible for the fee. The director shall

establish an exempt list consisting of those buyers who are 11088
responsible for the fee. 11089

(3) The semiannual inspection fee shall not be paid on a 11090
commercial feed if the fee has been paid by a previous 11091
distributor. 11092

(4) The semiannual inspection fee shall not be paid on 11093
customer-formula feed if the fee has been paid on the commercial 11094
feeds ~~which~~ that are used as components in that customer-formula 11095
feed. 11096

(B) Each distributor or exempt buyer who is required to pay a 11097
fee under division (A)(1) or (2) of this section shall file a 11098
semiannual statement with the director that includes the number of 11099
net tons of commercial feed distributed by ~~him~~ the distributor or 11100
exempt buyer in this state, within thirty days after the thirtieth 11101
day of June and within thirty days after the thirty-first day of 11102
December, respectively, of each calendar year. 11103

The inspection fee at the rate stated in division (A)(1) of 11104
this section shall accompany the statement. For a tonnage report 11105
that is not filed or payment of inspection fees that is not made 11106
within fifteen days after the due date, a penalty of ten per cent 11107
of the amount due, with a minimum penalty of fifty dollars shall 11108
be assessed against the distributor or exempt buyer. The amount of 11109
fees due, plus penalty, shall constitute a debt and become the 11110
basis of a judgment against the distributor or exempt buyer. 11111

(C) No information furnished under this section shall be 11112
disclosed by an employee of the department of agriculture in such 11113
a way as to divulge the operation of any person required to make 11114
such a report. 11115

Sec. 923.45. The director of agriculture ~~shall~~ may publish ~~at~~ 11116
~~least~~ annually in such form as ~~he~~ the director considers proper: 11117

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(A) Information concerning the sale of commercial feed,
including any production and use data ~~he~~ the director considers
advisable, provided that the data does not disclose the operation
of any manufacturer or distributor;

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(B) A comparison of the analyses of official samples of
commercial feeds distributed in this state with the guaranteed
analyses on the label.

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Sec. 923.46. All moneys collected by the director of
agriculture under sections 923.41 to 923.55 of the Revised Code
shall be deposited into the state treasury to the credit of the
commercial feed, fertilizer, seed, and lime inspection and
laboratory fund created in section 905.38 of the Revised Code.
~~Money credited to the fund shall be used only for administering
and enforcing this chapter and Chapter 905. of the Revised Code
and rules adopted under them.~~

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The director shall prepare and provide a report concerning
the fund in accordance with section 905.381 of the Revised Code.

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Sec. 927.69. To effect the purpose of sections 927.51 to
927.74 of the Revised Code, the director of agriculture or the
director's authorized representative may:

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

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

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(C) Conduct inspections of agricultural products that are
required by other states, the United States department of

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agriculture, other federal agencies, or foreign countries to 11147
determine whether the products are infested. If, upon making such 11148
an inspection, the director or the director's authorized 11149
representative determines that an agricultural product is not 11150
infested, the director or the director's authorized representative 11151
may issue a certificate, as required by other states, the United 11152
States department of agriculture, other federal agencies, or 11153
foreign countries, indicating that the product is not infested. 11154

If the director charges fees for any of the certificates, 11155
agreements, or inspections specified in this section, the fees 11156
shall be as follows: 11157

(1) Phyto sanitary certificates, twenty-five dollars; 11158

(2) Compliance agreements, twenty dollars; 11159

(3) Solid wood packing certificates, twenty dollars; 11160

(4) Agricultural products and their conveyances inspections, 11161
sixty five dollars an amount equal to the hourly rate of pay in 11162
the highest step in the pay range, including fringe benefits, of a 11163
plant pest control specialist multiplied by the number of hours 11164
worked by such a specialist in conducting an inspection. 11165

The director may adopt rules under section 927.52 of the 11166
Revised Code that define the certificates, agreements, and 11167
inspections. 11168

The fees shall be deposited into the state treasury to the 11169
credit of the pesticide program fund created in Chapter 921. of 11170
the Revised Code. Money credited to the fund shall be used to pay 11171
the costs incurred by the department of agriculture in 11172
administering this chapter, including employing a minimum of two 11173
additional inspectors. 11174

Sec. 1327.511. All money collected under section 1327.50 of 11175
the Revised Code for services rendered by the department of 11176

agriculture in operating the type evaluation program shall be 11177
deposited in the state treasury to the credit of the metrology and 11178
scale certification fund, which is hereby created. Money credited 11179
to the fund shall be used to pay operating costs incurred by the 11180
department in administering the program. 11181

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ 11182
the director's designee, has cause to believe that any person has 11183
violated, or is violating, section 1327.54 ~~or~~, 1327.61, or 1327.70 11184
of the Revised Code, ~~he~~ the director, or ~~his~~ the director's 11185
designee, may conduct a hearing in accordance with Chapter 119. of 11186
the Revised Code to determine whether a violation has occurred. If 11187
the director or ~~his~~ the director's designee determines that the 11188
person has violated or is violating section 1327.54 ~~or~~, 1327.61, 11189
or 1327.70 of the Revised Code, ~~he~~ the director or the director's 11190
designee may assess a civil penalty against the person. The person 11191
is liable for a civil penalty of not more than five hundred 11192
dollars for a first violation; for a second violation the person 11193
is liable for a civil penalty of not more than two thousand five 11194
hundred dollars; for each subsequent violation that occurs within 11195
five years after the second violation, the person is liable for a 11196
civil penalty of not more than ten thousand dollars. 11197

Any person assessed a civil penalty under this section shall 11198
pay the amount prescribed to the department of agriculture. The 11199
department shall remit all moneys collected under this section to 11200
the treasurer of state for deposit in the general revenue fund. 11201

Sec. 1327.70. (A) As used in this section: 11202

(1) "Large capacity scale" includes the following: 11203

(a) Vehicle and axle-load scales used by law enforcement 11204
personnel in the enforcement of load limits on highways together 11205
with commercial railway, vehicle, and livestock scales. 11206

Descriptions of these types of scales are included in national institute of standards and technology handbook 44 or its supplements and revisions, as referred to in section 1327.49 of the Revised Code. 11207
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(b) Any other scales designated in rules adopted under this section. 11211
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(2) "Large meter" includes the following: 11213

(a) Commercially used petroleum rack meters, petroleum vehicle tank meters, and liquefied petroleum gas truck mounted meters. Descriptions of these types of meters are included in national institute of standards and technology handbook 44 or its supplements and revisions, as referred to in section 1327.49 of the Revised Code. 11214
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(b) Any other meters designated in rules adopted under this section. 11220
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(B)(1) Except as otherwise provided in division (B)(2) of this section, no person shall operate a large capacity scale or a large meter in this state on and after September 1, 2005, 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. 11222
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(2) This section does not apply to a large capacity scale or a large meter that county or municipal inspector personnel routinely test for conformity with specifications and tolerances described in section 1327.49 of the Revised Code, provided that the tests are conducted using testing equipment that conforms to 11233
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standards approved by the director and that is possessed by the 11238
county or municipal corporation whose inspector personnel are 11239
conducting the tests. 11240

(C) Upon receipt of a completed permit application and 11241
payment of the required permit fee, the director or the director's 11242
designee shall issue to the applicant a permit to operate the 11243
large capacity scale or large meter that is the subject of the 11244
application. A permit issued under this section expires on the 11245
thirtieth day of June following its issuance and may be renewed 11246
annually on or before the first day of July upon payment of a 11247
renewal fee in the amount of two hundred fifty dollars. A person 11248
seeking a permit renewal whose payment of the renewal fee is 11249
postmarked or otherwise delivered to the director or the 11250
director's designee after the first day of July shall pay a late 11251
fee in an amount that is determined by the director, but that 11252
shall not exceed one hundred twenty-five dollars. 11253

(D) The director or the director's designee may issue a 11254
replacement permit to a permittee whose permit was lost, stolen, 11255
destroyed, or otherwise removed from the permittee's possession 11256
during the period of its validity. To obtain a replacement permit, 11257
a permittee shall pay a fee in an amount that is determined by the 11258
director, but that shall not exceed twenty dollars. The 11259
replacement permit expires on the date on which the permit that it 11260
replaces would have expired. 11261

(E) The director may adopt rules in accordance with Chapter 11262
119. of the Revised Code that designate additional types of scales 11263
and meters to be included in the definitions of "large capacity 11264
scale" and "large meter," respectively, or that provide a more 11265
detailed explanation of terms initially included in those 11266
definitions by statute. 11267

Sec. 1327.71. There is hereby created in the state treasury 11268

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.

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Sec. 1327.99. Whoever violates section 1327.54 ~~or~~ division (A), (B), (C), or (D) of section 1327.61, or section 1327.70 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each subsequent offense within seven years after the first offense, ~~such~~ the person is guilty of a misdemeanor of the first degree.

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Sec. 1502.02. (A) There is hereby created in the department of natural resources the division of recycling and litter prevention to be headed by the chief of recycling and litter prevention.

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(B) There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings.

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(C) The chief of recycling and litter prevention shall do all of the following:

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(1) Use moneys credited to the fund exclusively for the purposes set forth in sections 1502.03, 1502.04, and 1502.05 of the Revised Code, with particular emphasis on programs relating to recycling;

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(2) Expend for administration of the division not more than

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ten per cent of any fiscal year's appropriation to the division, 11298
excluding the amount assessed to the division for direct and 11299
indirect central support charges; 11300

(3) Require recipients of grants under section 1502.05 of the 11301
Revised Code, as a condition of receiving and retaining them, to 11302
do all of the following: 11303

(a) Create a separate account for the grants and any cash 11304
donations received that qualify for the donor credit allowed by 11305
section 5733.064 of the Revised Code; 11306

(b) Make expenditures from the account exclusively for the 11307
purposes for which the grants were received; 11308

(c) Use any auditing and accounting practices the chief 11309
considers necessary regarding the account; 11310

(d) Report to the chief information regarding the amount and 11311
donor of cash donations received as described by section 5733.064 11312
of the Revised Code; 11313

(e) Use grants received to supplement and not to replace any 11314
existing funding for such purposes. 11315

(4) Report to the tax commissioner information the chief 11316
receives pursuant to division (C)(3)(d) of this section. 11317

Sec. 1509.06. (A) An application for a permit to drill a new 11318
well, drill an existing well deeper, reopen a well, convert a well 11319
to any use other than its original purpose, or plug back a well to 11320
a different source of supply shall be filed with the chief of the 11321
division of mineral resources management upon such form as the 11322
chief prescribes and shall contain each of the following that is 11323
applicable: 11324

~~(A)~~(1) The name and address of the owner and, if a 11325
corporation, the name and address of the statutory agent; 11326

~~(B)~~(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent. 11327
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~~(C)~~(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit; 11330
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~~(D)~~(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county; 11333
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~~(E)~~(5) Designation of the well by name and number; 11336

~~(F)~~(6) The geological formation to be tested or used and the proposed total depth of the well; 11337
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~~(G)~~(7) The type of drilling equipment to be used; 11339

~~(H)~~(8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected; 11340
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~~(I)~~(9) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the 11343
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application may be sent to the division. The notice may be 11357
provided by hand delivery or regular mail. The identity of the 11358
owners of occupied dwelling units shall be determined using the 11359
tax records of the municipal corporation or county in which the 11360
dwelling unit is located as of the date of the notice. 11361

~~(J)~~(10) A plan for restoration of the land surface disturbed 11362
by drilling operations. The plan shall provide for compliance with 11363
the restoration requirements of division (A) of section 1509.072 11364
of the Revised Code and any rules adopted by the chief pertaining 11365
to that restoration. 11366

~~(K)~~(11) A description by name or number of the county, 11367
township, and municipal corporation roads, streets, and highways 11368
that the applicant anticipates will be used for access to and 11369
egress from the well site; 11370

~~(L)~~(12) Such other relevant information as the chief 11371
prescribes by rule. 11372

Each application shall be accompanied by a map, on a scale 11373
not smaller than four hundred feet to the inch, prepared by an 11374
Ohio registered surveyor, showing the location of the well and 11375
containing such other data as may be prescribed by the chief. If 11376
the well is or is to be located within the excavations and 11377
workings of a mine, the map also shall include the location of the 11378
mine, the name of the mine, and the name of the person operating 11379
the mine. 11380

(B) The chief shall cause a copy of the weekly circular 11381
prepared by the division to be provided to the county engineer of 11382
each county that contains active or proposed drilling activity. 11383
The weekly circular shall contain, in the manner prescribed by the 11384
chief, the names of all applicants for permits, the location of 11385
each well or proposed well, the information required by division 11386
~~(K)~~(A)(11) of this section, and any additional information the 11387

chief prescribes. In addition, the chief promptly shall transfer 11388
an electronic copy or facsimile, or if those methods are not 11389
available to a municipal corporation or township, a copy via 11390
regular mail, of a drilling permit application to the clerk of the 11391
legislative authority of the municipal corporation or to the clerk 11392
of the township in which the well or proposed well is or is to be 11393
located if the legislative authority of the municipal corporation 11394
or the board of township trustees has asked to receive copies of 11395
such applications and the appropriate clerk has provided the chief 11396
an accurate, current electronic mailing address or facsimile 11397
number, as applicable. 11398

(C) The chief shall not issue a permit for at least ten days 11399
after the date of filing of the application for the permit unless, 11400
upon reasonable cause shown, the chief waives that period or a 11401
request for expedited review is filed under this section. However, 11402
the chief shall issue a permit within twenty-one days of the 11403
filing of the application unless the chief denies the application 11404
by order. 11405

(D) An applicant may file a request with the chief for 11406
expedited review of a permit application if the well is not or is 11407
not to be located in a gas storage reservoir or reservoir 11408
protective area, as "reservoir protective area" is defined in 11409
section 1571.01 of the Revised Code. If the well is or is to be 11410
located in a coal bearing township, the application shall be 11411
accompanied by the affidavit of the landowner prescribed in 11412
section 1509.08 of the Revised Code. 11413

In addition to a complete application for a permit that meets 11414
the requirements of this section and the permit fee prescribed by 11415
this section, a request for expedited review shall be accompanied 11416
by a separate nonrefundable filing fee of five hundred dollars. 11417
Upon the filing of a request for expedited review, the chief shall 11418
cause the county engineer of the county in which the well is or is 11419

to be located to be notified of the filing of the permit 11420
application and the request for expedited review by telephone or 11421
other means that in the judgment of the chief will provide timely 11422
notice of the application and request. The chief shall issue a 11423
permit within seven days of the filing of the request unless the 11424
chief denies the application by order. Notwithstanding the 11425
provisions of this section governing expedited review of permit 11426
applications, the chief may refuse to accept requests for 11427
expedited review if, in the chief's judgment, the acceptance of 11428
the requests would prevent the issuance, within twenty-one days of 11429
their filing, of permits for which applications are pending. 11430

(E) A well shall be drilled and operated in accordance with 11431
the plans, sworn statements, and other information submitted in 11432
the approved application. 11433

(F) The chief shall issue an order denying a permit if the 11434
chief finds that there is a substantial risk that the operation 11435
will result in violations of this chapter or rules adopted under 11436
it that will present an imminent danger to public health or safety 11437
or damage to the environment, provided that where the chief finds 11438
that terms or conditions to the permit can reasonably be expected 11439
to prevent such violations, the chief shall issue the permit 11440
subject to those terms or conditions, including, if applicable, 11441
terms and conditions regarding subjects identified in rules 11442
adopted under section 1509.03 of the Revised Code. 11443

(G) Each application for a permit required by section 1509.05 11444
of the Revised Code, except an application for a well drilled or 11445
reopened for purposes of section 1509.22 of the Revised Code, also 11446
shall be accompanied by a nonrefundable fee ~~of two~~ as follows: 11447

(1) Two hundred fifty dollars for a permit to conduct 11448
activities in a township with a population of fewer than five 11449
thousand; 11450

(2) Five hundred dollars for a permit to conduct activities 11451
in a township with a population of five thousand or more, but 11452
fewer than ten thousand; 11453

(3) Seven hundred fifty dollars for a permit to conduct 11454
activities in a township with a population of ten thousand or 11455
more, but fewer than fifteen thousand; 11456

(4) One thousand dollars for a permit to conduct activities 11457
in either of the following: 11458

(a) A township with a population of fifteen thousand or more; 11459

(b) A municipal corporation regardless of population. 11460

For purposes of calculating fee amounts, populations shall be 11461
determined using the most recent federal decennial census. 11462

Each application for the revision or reissuance of a permit 11463
shall be accompanied by a nonrefundable fee of two hundred fifty 11464
dollars. 11465

(H) The chief may order the immediate suspension of drilling, 11466
operating, or plugging activities after finding that any person is 11467
causing, engaging in, or maintaining a condition or activity that 11468
in the chief's judgment presents an imminent danger to public 11469
health or safety or results in or is likely to result in immediate 11470
substantial damage to natural resources or for nonpayment of ~~the~~ a 11471
fee required by this section. The chief may order the immediate 11472
suspension of the drilling or reopening of a well in a coal 11473
bearing township after determining that the drilling or reopening 11474
activities present an imminent and substantial threat to public 11475
health or safety or to miners' health or safety. Before issuing 11476
any such order, the chief shall notify the owner in such manner as 11477
in the chief's judgment would provide reasonable notification that 11478
the chief intends to issue a suspension order. The chief may issue 11479
such an order without prior notification if reasonable attempts to 11480

notify the owner have failed, but in such an event notification 11481
shall be given as soon thereafter as practical. Within five 11482
calendar days after the issuance of the order, the chief shall 11483
provide the owner an opportunity to be heard and to present 11484
evidence that the condition or activity is not likely to result in 11485
immediate substantial damage to natural resources or does not 11486
present an imminent danger to public health or safety or to 11487
miners' health or safety, if applicable. In the case of activities 11488
in a coal bearing township, if the chief, after considering 11489
evidence presented by the owner, determines that the activities do 11490
not present such a threat, the chief shall revoke the suspension 11491
order. Notwithstanding any provision of this chapter, the owner 11492
may appeal a suspension order directly to the court of common 11493
pleas of the county in which the activity is located or, if in a 11494
coal bearing township, to the reclamation commission under section 11495
1513.13 of the Revised Code. 11496

Sec. 1509.072. No oil or gas well owner or agent of an oil or 11497
gas well owner shall fail to restore the land surface within the 11498
area disturbed in siting, drilling, completing, and producing the 11499
well as required in this section. 11500

(A) Within five months after the date upon which the surface 11501
drilling of a well is commenced, the owner or the owner's agent, 11502
in accordance with the restoration plan filed under division 11503
~~(J)~~(A)(10) of section 1509.06 of the Revised Code, shall fill all 11504
the pits for containing brine, other waste substances resulting, 11505
obtained, or produced in connection with exploration or drilling 11506
for, or production of, oil or gas, or oil that are not required by 11507
other state or federal law or regulation, and remove all concrete 11508
bases, drilling supplies, and drilling equipment. Within nine 11509
months after the date upon which the surface drilling of a well is 11510
commenced, the owner or the owner's agent shall grade or terrace 11511
and plant, seed, or sod the area disturbed that is not required in 11512

production of the well where necessary to bind the soil and 11513
prevent substantial erosion and sedimentation. If the chief of the 11514
division of mineral resources management finds that a pit used for 11515
containing brine, other waste substances, or oil is in violation 11516
of section 1509.22 of the Revised Code or rules adopted or orders 11517
issued under it, the chief may require the pit to be emptied and 11518
closed before expiration of the five-month restoration period. 11519

(B) Within six months after a well that has produced oil or 11520
gas is plugged, or after the plugging of a dry hole, the owner or 11521
the owner's agent shall remove all production and storage 11522
structures, supplies, and equipment, and any oil, salt water, and 11523
debris, and fill any remaining excavations. Within that period the 11524
owner or the owner's agent shall grade or terrace and plant, seed, 11525
or sod the area disturbed where necessary to bind the soil and 11526
prevent substantial erosion and sedimentation. 11527

The owner shall be released from responsibility to perform 11528
any or all restoration requirements of this section on any part or 11529
all of the area disturbed upon the filing of a request for a 11530
waiver with and obtaining the written approval of the chief, which 11531
request shall be signed by the surface owner to certify the 11532
approval of the surface owner of the release sought. The chief 11533
shall approve the request unless the chief finds upon inspection 11534
that the waiver would be likely to result in substantial damage to 11535
adjoining property, substantial contamination of surface or 11536
underground water, or substantial erosion or sedimentation. 11537

The chief, by order, may shorten the time periods provided 11538
for under division (A) or (B) of this section if failure to 11539
shorten the periods would be likely to result in damage to public 11540
health or the waters or natural resources of the state. 11541

The chief, upon written application by an owner or an owner's 11542
agent showing reasonable cause, may extend the period within which 11543
restoration shall be completed under divisions (A) and (B) of this 11544

section, but not to exceed a further six-month period, except 11545
under extraordinarily adverse weather conditions or when essential 11546
equipment, fuel, or labor is unavailable to the owner or the 11547
owner's agent. 11548

If the chief refuses to approve a request for waiver or 11549
extension, the chief shall do so by order. 11550

Sec. 1509.31. Whenever the entire interest of an oil and gas 11551
lease is assigned or otherwise transferred, the assignor or 11552
transferor shall notify the holders of the royalty interests, and, 11553
if a well or wells exist on the lease, the division of mineral 11554
resources management, of the name and address of the assignee or 11555
transferee by certified mail, return receipt requested, not later 11556
than thirty days after the date of the assignment or transfer. 11557
When notice of any such assignment or transfer is required to be 11558
provided to the division, it shall be provided on a form 11559
prescribed and provided by the division and verified by both the 11560
assignor or transferor and by the assignee or transferee. The 11561
notice form applicable to assignments or transfers of a well to 11562
the owner of the surface estate of the tract on which the well is 11563
located shall contain a statement informing the landowner that the 11564
well may require periodic servicing to maintain its productivity; 11565
that, upon assignment or transfer of the well to the landowner, 11566
the landowner becomes responsible for compliance with the 11567
requirements of this chapter and rules adopted under it, 11568
including, without limitation, the proper disposal of brine 11569
obtained from the well, the plugging of the well when it becomes 11570
incapable of producing oil or gas, and the restoration of the well 11571
site; and that, upon assignment or transfer of the well to the 11572
landowner, the landowner becomes responsible for the costs of 11573
compliance with the requirements of this chapter and rules adopted 11574
under it and the costs for operating and servicing the well. 11575

The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit adopted or issued under it, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division the information described in divisions (A)(1), ~~(B)(2)~~, ~~(C)(3)~~, ~~(D)(4)~~, ~~(E)(5)~~, ~~(J)(10)~~, ~~(K)(11)~~, and ~~(L)(12)~~ of section 1509.06 of the Revised Code; obtains liability insurance coverage required by section 1509.07 of the Revised Code, except when none is required by that section; and executes and files a surety bond, negotiable certificates of deposit or irrevocable letters of credit, or cash, as described in that section. Instead of a bond, but only upon acceptance by the chief of the division of mineral resources management, the assignee or transferee may file proof of financial responsibility, described in section 1509.07 of the Revised Code. Section 1509.071 of the Revised Code applies to the surety bond, cash, and negotiable certificates of deposit and irrevocable letters of credit described in this section. Unless the chief approves a modification, each assignee or transferee shall operate in accordance with the plans and information filed by the permit holder pursuant to section 1509.06 of the Revised Code.

Sec. 1515.14. Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a

municipal corporation or a township to a maximum of eight thousand 11608
dollars, provided that the Ohio soil and water conservation 11609
commission may approve payment to a district in an amount in 11610
excess of eight thousand dollars in any calendar year upon receipt 11611
of a request and justification from the district. The county 11612
auditor shall credit such payments to the special fund established 11613
pursuant to section 1515.10 of the Revised Code for the local soil 11614
and water conservation district. The department may make advances 11615
at least quarterly to each district on the basis of the estimated 11616
contribution of the state to each district. Moneys received by 11617
each district shall be expended for the purposes of the district. 11618

For the purpose of providing money to soil and water 11619
conservation districts under this section, there is hereby created 11620
in the state treasury the soil and water conservation district 11621
assistance fund consisting of money credited to it under section 11622
3714.073 of the Revised Code. 11623

Sec. 1517.02. There is hereby created in the department of 11624
natural resources the division of natural areas and preserves, 11625
which shall be administered by the chief of natural areas and 11626
preserves. The chief shall take an oath of office and shall file 11627
in the office of the secretary of state a bond signed by the chief 11628
and by a surety approved by the governor for a sum fixed pursuant 11629
to section 121.11 of the Revised Code. 11630

The chief shall administer a system of nature preserves and 11631
wild, scenic, and recreational river areas. The chief shall 11632
establish a system of nature preserves through acquisition and 11633
dedication of natural areas of state or national significance, 11634
which shall include, but not be limited to, areas ~~which~~ that 11635
represent characteristic examples of Ohio's natural landscape 11636
types and its natural vegetation and geological history. The chief 11637
shall encourage landowners to dedicate areas of unusual 11638

significance as nature preserves, and shall establish and maintain 11639
a registry of natural areas of unusual significance. 11640

The chief may supervise, operate, protect, and maintain wild, 11641
scenic, and recreational river areas, as designated by the 11642
director of natural resources. The chief may cooperate with 11643
federal agencies administering any federal program concerning 11644
wild, scenic, or recreational river areas. 11645

~~The chief may, with the approval of the director, enter into 11646
an agreement with the United States department of commerce under 11647
the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 11648
U.S.C.A. 1451, as amended, for the purpose of receiving grants to 11649
continue the management, operation, research, and programming at 11650
old woman creek national estuarine research reserve. 11651~~

The chief shall do the following: 11652

(A) Formulate policies and plans for the acquisition, use, 11653
management, and protection of nature preserves; 11654

(B) Formulate policies for the selection of areas suitable 11655
for registration; 11656

(C) Formulate policies for the dedication of areas as nature 11657
preserves; 11658

(D) Prepare and maintain surveys and inventories of natural 11659
areas and habitats of rare and endangered species of plants and 11660
animals; 11661

(E) Adopt rules for the use, visitation, and protection of 11662
nature preserves, "natural areas owned or managed through 11663
easement, license, or lease by the department and administered by 11664
the division," and lands owned "or managed through easement, 11665
license, or lease" by the department and administered by the 11666
division ~~which~~ that are within or adjacent to any wild, scenic, or 11667
recreational river area, in accordance with Chapter 119. of the 11668

Revised Code; 11669

(F) Provide facilities and improvements within the state 11670
system of nature preserves that are necessary for their 11671
visitation, use, restoration, and protection and do not impair 11672
their natural character; 11673

(G) Provide interpretive programs and publish and disseminate 11674
information pertaining to nature preserves and natural areas for 11675
their visitation and use; 11676

(H) Conduct and grant permits to qualified persons for the 11677
conduct of scientific research and investigations within nature 11678
preserves; 11679

(I) Establish an appropriate system for marking nature 11680
preserves; 11681

(J) Publish and submit to the governor and the general 11682
assembly a biennial report of the status and condition of each 11683
nature preserve, activities conducted within each preserve, and 11684
plans and recommendations for natural area preservation. 11685

Sec. 1521.062. (A) All dams, dikes, and levees constructed in 11686
this state and not exempted by this section or by the chief of the 11687
division of water under section 1521.06 of the Revised Code shall 11688
be inspected periodically by the chief ~~to~~, except for classes of 11689
dams that, in accordance with rules adopted under this section, 11690
are required to be inspected by registered professional engineers 11691
who have been approved for that purpose by the chief. The 11692
inspection shall ensure that continued operation and use of the 11693
dam, dike, or levee does not constitute a hazard to life, health, 11694
or property. Periodic inspections shall not be required of the 11695
following structures: 11696

(1) A dam that is less than ten feet in height and has a 11697
storage capacity of not more than fifty acre-feet at the elevation 11698

of the top of the dam, as determined by the chief. For the 11699
purposes of this section, the height of a dam shall be measured 11700
from the natural stream bed or lowest ground elevation at the 11701
downstream or outside limit of the dam to the elevation of the top 11702
of the dam. 11703

(2) A dam, regardless of height, that has a storage capacity 11704
of not more than fifteen acre-feet at the elevation of the top of 11705
the dam, as determined by the chief; 11706

(3) A dam, regardless of storage capacity, that is six feet 11707
or less in height, as determined by the chief; 11708

(4) A dam, dike, or levee belonging to a class exempted by 11709
the chief; 11710

(5) A dam, dike, or levee that has been exempted in 11711
accordance with rules adopted under section 1521.064 of the 11712
Revised Code. 11713

(B) In accordance with rules adopted under this section, the 11714
owner of a dam that is in a class of dams that is designated in 11715
the rules for inspection by registered professional engineers 11716
shall obtain the services of a registered professional engineer 11717
who has been approved by the chief to conduct the periodic 11718
inspection of dams pursuant to schedules and other standards and 11719
procedures established in the rules. The registered professional 11720
engineer shall prepare a report of the inspection in accordance 11721
with the rules and provide the inspection report to the dam owner 11722
who shall submit it to the chief. A dam that is designated under 11723
the rules for inspection by a registered professional engineer but 11724
that is not inspected within a five-year period may be inspected 11725
by the chief at the owner's expense. 11726

(C) Intervals between periodic inspections shall be 11727
determined by the chief, but shall not exceed five years. ~~The 11728
chief may use inspection reports prepared for the owner of the 11729~~

dam, dike, or levee by a registered professional engineer. 11730

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that 11731
the chief inspects, the chief shall be furnished furnish a report 11732
of ~~each~~ the inspection and to the owner of the dam, dike, or 11733
levee. With regard to a dam, dike, or levee that has been 11734
inspected, either by the chief or by a registered professional 11735
engineer, and that is the subject of an inspection report prepared 11736
or received by the chief, the chief shall be informed of inform 11737
the owner of any required repairs, maintenance, investigations, 11738
and other remedial and operational measures ~~by the chief~~. The 11739
chief shall order the owner to perform such repairs, maintenance, 11740
investigations, or other remedial or operational measures as ~~he~~ 11741
the chief considers necessary to safeguard life, health, or 11742
property. The order shall permit the owner a reasonable time in 11743
which to perform the needed repairs, maintenance, investigations, 11744
or other remedial measures, and the cost thereof shall be borne by 11745
the owner. All orders of the chief are subject to appeal as 11746
provided in Chapter 119. of the Revised Code. The attorney 11747
general, upon written request of the chief, may bring an action 11748
for an injunction against any person who violates this section or 11749
to enforce an order of the chief made pursuant to this section. 11750

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, 11751
maintain, and operate the structure and its appurtenances safely 11752
in accordance with state rules, terms and conditions of permits, 11753
orders, and other requirements issued pursuant to this section or 11754
section 1521.06 of the Revised Code. The owner shall fully and 11755
promptly notify the division of water and other responsible 11756
authorities of any condition ~~which~~ that threatens the safety of 11757
the structure and shall take all necessary actions to safeguard 11758
life, health, and property. 11759

~~(E)~~(F) Before commencing the repair, improvement, alteration, 11760
or removal of a dam, dike, or levee, the owner shall file an 11761

application including plans, specifications, and other required 11762
information with the division and shall secure written approval of 11763
the application by the chief. Emergency actions by the owner 11764
required to safeguard life, health, or property are exempt from 11765
this requirement. The chief may, by rule, define maintenance, 11766
repairs, or other remedial measures of a routine nature ~~which~~ that 11767
are exempt from this requirement. 11768

~~(F)~~(G) The chief may remove or correct, at the expense of the 11769
owner, any unsafe structures found to be constructed or maintained 11770
in violation of this section or section 1521.06 of the Revised 11771
Code. In the case of an owner other than a governmental agency, 11772
the cost of removal or correction of any unsafe structure, 11773
together with a description of the property on which the unsafe 11774
structure is located, shall be certified by the chief to the 11775
county auditor and placed by the county auditor upon the tax 11776
duplicate. This cost is a lien upon the lands from the date of 11777
entry and shall be collected as other taxes and returned to the 11778
division. In the case of an owner that is a governmental agency, 11779
the cost of removal or correction of any unsafe structure shall be 11780
recoverable from the owner by appropriate action in a court of 11781
competent jurisdiction. 11782

~~(G)~~(H) If the condition of any dam, dike, or levee is found, 11783
in the judgment of the chief, to be so dangerous to the safety of 11784
life, health, or property as not to permit time for the issuance 11785
and enforcement of an order relative to repair, maintenance, or 11786
operation, the chief shall employ any of the following remedial 11787
means necessary to protect life, health, and property: 11788

(1) Lower the water level of the lake or reservoir by 11789
releasing water; 11790

(2) Completely drain the lake or reservoir; 11791

(3) Take such other measures or actions as ~~he~~ the chief 11792

considers necessary to safeguard life, health, and property. 11793

The chief shall continue in full charge and control of the 11794
dam, dike, or levee until the structure is rendered safe. The cost 11795
of the remedy shall be recoverable from the owner of the structure 11796
by appropriate action in a court of competent jurisdiction. 11797

~~(H)~~(I) The chief may accept and expend gifts, bequests, and 11798
grants from the United States government or from any other public 11799
or private source and may contract with the United States 11800
government or any other agency or entity for the purpose of 11801
carrying out the dam safety functions set forth in this section 11802
and section 1521.06 of the Revised Code. 11803

(J) In accordance with Chapter 119. of the Revised Code, the 11804
chief shall adopt, and may amend or rescind, rules that do all of 11805
the following: 11806

(1) Designate classes of dams for which dam owners must 11807
obtain the services of a registered professional engineer to 11808
periodically inspect the dams and to prepare reports of the 11809
inspections for submittal to the chief; 11810

(2) Establish standards in accordance with which the chief 11811
must approve or disapprove registered professional engineers to 11812
inspect dams together with procedures governing the approval 11813
process; 11814

(3) Establish schedules, standards, and procedures governing 11815
periodic inspections and standards and procedures governing the 11816
preparation and submittal of inspection reports; 11817

(4) Establish provisions regarding the enforcement of this 11818
section and rules adopted under it. 11819

Sec. 1531.27. The chief of the division of wildlife shall pay 11820
to the treasurers of the several counties wherein lands owned by 11821
the state and administered by the division are ~~situate~~ located an 11822

annual amount determined in the following manner: in each such 11823
county one per cent of the total value of such lands exclusive of 11824
improvements, as shown on the auditor's records of taxable value 11825
of real property existing at the time when the state acquired the 11826
tract or tracts comprising ~~such~~ the lands. 11827

~~Such~~ The payments shall be made from funds accruing to the 11828
division of ~~wildlife~~ from the sale of hunting or fishing licenses 11829
and ~~federal wildlife restoration funds, and the~~ from fines, 11830
penalties, and forfeitures deposited into the state treasury to 11831
the credit of the wildlife fund created in section 1531.17 of the 11832
Revised Code. The allocation of amounts to be paid from ~~such~~ those 11833
sources shall be determined by the director of natural resources. 11834

~~Such~~ The payments to the treasurers of the several counties 11835
shall be credited to the fund for school purposes within the 11836
school districts wherein ~~such~~ the lands are ~~situate~~ located. 11837

Sec. 1533.10. Except as provided in this section or division 11838
(A)(2) of section 1533.12 of the Revised Code, no person shall 11839
hunt any wild bird or wild quadruped without a hunting license. 11840
Each day that any person hunts within the state without procuring 11841
such a license constitutes a separate offense. Except as otherwise 11842
provided in this section, every applicant for a hunting license 11843
who is a resident of the state and ~~sixteen~~ eighteen years of age 11844
or more shall procure a resident hunting license, the fee for 11845
which shall be eighteen dollars, unless the rules adopted under 11846
division (B) of section 1533.12 of the Revised Code provide for 11847
issuance of a resident hunting license to the applicant free of 11848
charge. Except as provided in rules adopted under division (B)(2) 11849
of that section, each applicant who is a resident of this state 11850
and who at the time of application is sixty-six years of age or 11851
older shall procure a special senior hunting license, the fee for 11852
which shall be one-half of the regular hunting license fee. Every 11853

applicant who is under the age of ~~sixteen~~ eighteen years shall 11854
procure a special youth hunting license, the fee for which shall 11855
be one-half of the regular hunting license fee. The owner of lands 11856
in the state and the owner's children of any age and grandchildren 11857
under eighteen years of age may hunt on the lands without a 11858
hunting license. The tenant and children of the tenant, residing 11859
on lands in the state, may hunt on them without a hunting license. 11860
Every Except as otherwise provided in division (A)(1) of section 11861
1533.12 of the Revised Code, every applicant for a hunting license 11862
who is a nonresident of the state and who is ~~sixteen~~ eighteen 11863
years of age or older shall procure a nonresident hunting license, 11864
the fee for which shall be one hundred twenty-four dollars, unless 11865
the applicant is a resident of a state that is a party to an 11866
agreement under section 1533.91 of the Revised Code, in which case 11867
the fee shall be eighteen dollars. 11868

The chief of the division of wildlife may issue a small game 11869
hunting license expiring three days from the effective date of the 11870
license to a nonresident of the state, the fee for which shall be 11871
thirty-nine dollars. No person shall take or possess deer, wild 11872
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 11873
animal while possessing only a small game hunting license. A small 11874
game hunting license does not authorize the taking or possessing 11875
of ducks, geese, or brant without having obtained, in addition to 11876
the small game hunting license, a wetlands habitat stamp as 11877
provided in section 1533.112 of the Revised Code. A small game 11878
hunting license does not authorize the taking or possessing of 11879
deer, wild turkeys, or fur-bearing animals. A nonresident of the 11880
state who wishes to take or possess deer, wild turkeys, or 11881
fur-bearing animals in this state shall procure, respectively, a 11882
special deer or wild turkey permit as provided in section 1533.11 11883
of the Revised Code or a fur taker permit as provided in section 11884
1533.111 of the Revised Code in addition to a nonresident hunting 11885
license or a special youth hunting license, as applicable, as 11886

provided in this section. 11887

No person shall procure or attempt to procure a hunting 11888
license by fraud, deceit, misrepresentation, or any false 11889
statement. 11890

This section does not authorize the taking and possessing of 11891
deer or wild turkeys without first having obtained, in addition to 11892
the hunting license required by this section, a special deer or 11893
wild turkey permit as provided in section 1533.11 of the Revised 11894
Code or the taking and possessing of ducks, geese, or brant 11895
without first having obtained, in addition to the hunting license 11896
required by this section, a wetlands habitat stamp as provided in 11897
section 1533.112 of the Revised Code. 11898

This section does not authorize the hunting or trapping of 11899
fur-bearing animals without first having obtained, in addition to 11900
a hunting license required by this section, a fur taker permit as 11901
provided in section 1533.111 of the Revised Code. 11902

No hunting license shall be issued unless it is accompanied 11903
by a written explanation of the law in section 1533.17 of the 11904
Revised Code and the penalty for its violation, including a 11905
description of terms of imprisonment and fines that may be 11906
imposed. 11907

No hunting license shall be issued unless the applicant 11908
presents to the agent authorized to issue the license a previously 11909
held hunting license or evidence of having held such a license in 11910
content and manner approved by the chief, a certificate of 11911
completion issued upon completion of a hunter education and 11912
conservation course approved by the chief, or evidence of 11913
equivalent training in content and manner approved by the chief. 11914

No person shall issue a hunting license to any person who 11915
fails to present the evidence required by this section. No person 11916
shall purchase or obtain a hunting license without presenting to 11917

the issuing agent the evidence required by this section. Issuance 11918
of a hunting license in violation of the requirements of this 11919
section is an offense by both the purchaser of the illegally 11920
obtained hunting license and the clerk or agent who issued the 11921
hunting license. Any hunting license issued in violation of this 11922
section is void. 11923

The chief, with approval of the wildlife council, shall adopt 11924
rules prescribing a hunter education and conservation course for 11925
first-time hunting license buyers and for volunteer instructors. 11926
The course shall consist of subjects including, but not limited 11927
to, hunter safety and health, use of hunting implements, hunting 11928
tradition and ethics, the hunter and conservation, the law in 11929
section 1533.17 of the Revised Code along with the penalty for its 11930
violation, including a description of terms of imprisonment and 11931
fines that may be imposed, and other law relating to hunting. 11932
Authorized personnel of the division or volunteer instructors 11933
approved by the chief shall conduct such courses with such 11934
frequency and at such locations throughout the state as to 11935
reasonably meet the needs of license applicants. The chief shall 11936
issue a certificate of completion to each person who successfully 11937
completes the course and passes an examination prescribed by the 11938
chief. 11939

Sec. 1533.11. (A) Except as provided in this section, no 11940
person shall hunt deer on lands of another without first obtaining 11941
an annual special deer permit. Except as provided in this section, 11942
no person shall hunt wild turkeys on lands of another without 11943
first obtaining an annual special wild turkey permit. Each 11944
applicant for a special deer or wild turkey permit shall pay an 11945
annual fee of twenty-three dollars for each permit unless the 11946
rules adopted under division (B) of section 1533.12 of the Revised 11947
Code provide for issuance of a deer or wild turkey permit to the 11948

applicant free of charge. Except as provided in rules adopted 11949
under division (B)(2) of that section, each applicant who is a 11950
resident of this state and who at the time of application is 11951
sixty-six years of age or older shall procure a special senior 11952
deer or wild turkey permit, the fee for which shall be one-half of 11953
the regular special deer or wild turkey permit fee. Each applicant 11954
who is under the age of ~~sixteen~~ eighteen years shall procure a 11955
special youth deer or wild turkey permit, the fee for which shall 11956
be one-half of the regular special deer or wild turkey permit fee. 11957
Except as provided in division (A)(2) of section 1533.12 of the 11958
Revised Code, a deer or wild turkey permit shall run concurrently 11959
with the hunting license. The money received shall be paid into 11960
the state treasury to the credit of the wildlife fund, created in 11961
section 1531.17 of the Revised Code, exclusively for the use of 11962
the division of wildlife in the acquisition and development of 11963
land for deer or wild turkey management, for investigating deer or 11964
wild turkey problems, and for the stocking, management, and 11965
protection of deer or wild turkey. Every person, while hunting 11966
deer or wild turkey on lands of another, shall carry the person's 11967
special deer or wild turkey permit and exhibit it to any 11968
enforcement officer so requesting. Failure to so carry and exhibit 11969
such a permit constitutes an offense under this section. The chief 11970
of the division of wildlife shall adopt any additional rules the 11971
chief considers necessary to carry out this section and section 11972
1533.10 of the Revised Code. 11973

The owner and the children of the owner of lands in this 11974
state may hunt deer or wild turkey thereon without a special deer 11975
or wild turkey permit. The tenant and children of the tenant may 11976
hunt deer or wild turkey on lands where they reside without a 11977
special deer or wild turkey permit. 11978

(B) A special deer or wild turkey permit is not transferable. 11979
No person shall carry a special deer or wild turkey permit issued 11980

in the name of another person. 11981

(C) The wildlife refunds fund is hereby created in the state 11982
treasury. The fund shall consist of money received from 11983
application fees for special deer permits that are not issued. 11984
Money in the fund shall be used to make refunds of such 11985
application fees. 11986

Sec. 1533.111. Except as provided in this section or division 11987
(A)(2) of section 1533.12 of the Revised Code, no person shall 11988
hunt or trap fur-bearing animals on land of another without first 11989
obtaining an annual fur taker permit. Each applicant for a fur 11990
taker permit shall pay an annual fee of fourteen dollars for the 11991
permit, except as otherwise provided in this section or unless the 11992
rules adopted under division (B) of section 1533.12 of the Revised 11993
Code provide for issuance of a fur taker permit to the applicant 11994
free of charge. Except as provided in rules adopted under division 11995
(B)(2) of that section, each applicant who is a resident of this 11996
state and who at the time of application is sixty-six years of age 11997
or older shall procure a special senior fur taker permit, the fee 11998
for which shall be one-half of the regular fur taker permit fee. 11999
Each applicant ~~who is a resident of the state and~~ under the age of 12000
~~sixteen~~ eighteen years shall procure a special youth fur taker 12001
permit, the fee for which shall be one-half of the regular fur 12002
taker permit fee. The fur taker permit shall run concurrently with 12003
the hunting license. The money received shall be paid into the 12004
state treasury to the credit of the fund established in section 12005
1533.15 of the Revised Code. 12006

No fur taker permit shall be issued unless it is accompanied 12007
by a written explanation of the law in section 1533.17 of the 12008
Revised Code and the penalty for its violation, including a 12009
description of terms of imprisonment and fines that may be 12010
imposed. 12011

No fur taker permit shall be issued unless the applicant 12012
presents to the agent authorized to issue a fur taker permit a 12013
previously held hunting license or trapping or fur taker permit or 12014
evidence of having held such a license or permit in content and 12015
manner approved by the chief of the division of wildlife, a 12016
certificate of completion issued upon completion of a trapper 12017
education course approved by the chief, or evidence of equivalent 12018
training in content and manner approved by the chief. 12019

No person shall issue a fur taker permit to any person who 12020
fails to present the evidence required by this section. No person 12021
shall purchase or obtain a fur taker permit without presenting to 12022
the issuing agent the evidence required by this section. Issuance 12023
of a fur taker permit in violation of the requirements of this 12024
section is an offense by both the purchaser of the illegally 12025
obtained permit and the clerk or agent who issued the permit. Any 12026
fur taker permit issued in violation of this section is void. 12027

The chief, with approval of the wildlife council, shall adopt 12028
rules prescribing a trapper education course for first-time fur 12029
taker permit buyers and for volunteer instructors. The course 12030
shall consist of subjects that include, but are not limited to, 12031
trapping techniques, animal habits and identification, trapping 12032
tradition and ethics, the trapper and conservation, the law in 12033
section 1533.17 of the Revised Code along with the penalty for its 12034
violation, including a description of terms of imprisonment and 12035
fines that may be imposed, and other law relating to trapping. 12036
Authorized personnel of the division of wildlife or volunteer 12037
instructors approved by the chief shall conduct the courses with 12038
such frequency and at such locations throughout the state as to 12039
reasonably meet the needs of permit applicants. The chief shall 12040
issue a certificate of completion to each person who successfully 12041
completes the course and passes an examination prescribed by the 12042
chief. 12043

Every person, while hunting or trapping fur-bearing animals 12044
on lands of another, shall carry the person's fur taker permit 12045
~~affixed to the person's hunting license~~ with the person's 12046
signature written ~~across the face of~~ on the permit. Failure to 12047
carry such a signed permit constitutes an offense under this 12048
section. The chief shall adopt any additional rules the chief 12049
considers necessary to carry out this section. 12050

The owner and the children of the owner of lands in this 12051
state may hunt or trap fur-bearing animals thereon without a fur 12052
taker permit. The tenant and children of the tenant may hunt or 12053
trap fur-bearing animals on lands where they reside without a fur 12054
taker permit. 12055

A fur taker permit is not transferable. No person shall carry 12056
a fur taker permit issued in the name of another person. 12057

A fur taker permit entitles a nonresident to take from this 12058
state fur-bearing animals taken and possessed by the nonresident 12059
as provided by law or division rule. 12060

Sec. 1533.112. Except as provided in this section or unless 12061
otherwise provided by division rule, no person shall hunt ducks, 12062
geese, or brant on the lands of another without first obtaining an 12063
annual wetlands habitat stamp. The annual fee for the wetlands 12064
habitat stamp shall be fourteen dollars for each stamp unless the 12065
rules adopted under division (B) of section 1533.12 provide for 12066
issuance of a wetlands habitat stamp to the applicant free of 12067
charge. 12068

Moneys received from the stamp fee shall be paid into the 12069
state treasury to the credit of the wetlands habitat fund, which 12070
is hereby established. Moneys shall be paid from the fund on the 12071
order of the director of natural resources for the following 12072
purposes: 12073

(A) Sixty per cent for projects that the division approves 12074
for the acquisition, development, management, or preservation of 12075
waterfowl areas within the state; 12076

(B) Forty per cent for contribution by the division to an 12077
appropriate nonprofit organization for the acquisition, 12078
development, management, or preservation of lands and waters 12079
within the United States or Canada that provide or will provide 12080
habitat for waterfowl with migration routes that cross this state. 12081

No moneys derived from the issuance of wetlands habitat 12082
stamps shall be spent for purposes other than those specified by 12083
this section. All investment earnings of the fund shall be 12084
credited to the fund. 12085

Wetlands habitat stamps shall be furnished by and in a form 12086
prescribed by the chief of the division of wildlife and issued by 12087
clerks and other agents authorized to issue licenses and permits 12088
under section 1533.13 of the Revised Code. The record of stamps 12089
kept by the clerks and other agents shall be uniform throughout 12090
the state, in such form or manner as the director prescribes, and 12091
open at all reasonable hours to the inspection of any person. 12092
Unless otherwise provided by rule, each stamp shall remain in 12093
force until midnight of the thirty-first day of August next 12094
ensuing. Wetlands habitat stamps may be issued in any manner to 12095
any person on any date, whether or not that date is within the 12096
period in which they are effective. 12097

Every person to whom this section applies, while hunting 12098
ducks, geese, or brant, shall carry an unexpired wetlands habitat 12099
stamp that is validated by the person's signature written on the 12100
stamp in ink and shall exhibit the stamp to any enforcement 12101
officer so requesting. No person shall fail to carry and exhibit 12102
the person's stamp. 12103

A wetlands habitat stamp is not transferable. 12104

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.

Sec. 1533.12. (A)(1) Except as otherwise provided in division (A)(2) of this section, every person on active duty in the armed forces of the United States who is stationed in this state and who wishes to engage in an activity for which a license, permit, or stamp is required under this chapter first shall obtain the requisite license, permit, or stamp. Such a person is eligible to obtain a resident hunting or fishing license regardless of whether the person qualifies as a resident of this state. To obtain a resident hunting or fishing license, the person shall present a card or other evidence identifying the person as being on active duty in the armed forces of the United States and as being stationed in this state.

(2) Every person on active duty in the armed forces of the United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on the person when fishing, hunting, or trapping, a card or other evidence identifying the

person as being on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a special deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted under section 1531.10 of the Revised Code all of the following:

(1) Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey 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.

(2) Every resident of the state who was born on or before December 31, 1937, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey 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.

(3) Every resident of state or county institutions, charitable institutions, and military homes in this state shall be

issued an annual fishing license free of charge when application 12167
is made to the chief in the manner prescribed by and on forms 12168
provided by the chief. 12169

(4) Any mobility impaired or blind person, as defined in 12170
section 955.011 of the Revised Code, who is a resident of this 12171
state and who is unable to engage in fishing without the 12172
assistance of another person shall be issued an annual fishing 12173
license free of charge when application is made to the chief in 12174
the manner prescribed by and on forms provided by the chief. The 12175
person who is assisting the mobility impaired or blind person may 12176
assist in taking or catching fish of the kind permitted to be 12177
taken or caught without procuring the license required under 12178
section 1533.32 of the Revised Code, provided that only one line 12179
is used by both persons. 12180

(5) As used in division (B)(5) of this section, "prisoner of 12181
war" means any regularly appointed, enrolled, enlisted, or 12182
inducted member of the military forces of the United States who 12183
was captured, separated, and incarcerated by an enemy of the 12184
United States. 12185

Any person who has been a prisoner of war, was honorably 12186
discharged from the military forces, and is a resident of this 12187
state shall be issued an annual fishing license, hunting license, 12188
fur taker permit, or wetlands habitat stamp, or any combination of 12189
those licenses, permits, and stamp, free of charge when 12190
application is made to the chief in the manner prescribed by and 12191
on forms provided by the chief. 12192

(C) The chief shall adopt rules pursuant to section 1531.08 12193
of the Revised Code designating not more than two days, which need 12194
not be consecutive, in each year as "free sport fishing days" on 12195
which any resident may exercise the privileges accorded the holder 12196
of a fishing license issued under section 1533.32 of the Revised 12197

Code without procuring such a license, provided that the person is 12198
not otherwise violating any of the fishing laws of this state. 12199

Sec. 1533.32. Except as provided in this section or division 12200
(A)(2) or (C) of section 1533.12 of the Revised Code, no person, 12201
including nonresidents, shall take or catch any fish by angling in 12202
any of the waters in the state or engage in fishing in those 12203
waters without a license. No person shall take or catch frogs or 12204
turtles without a valid fishing license, except as provided in 12205
this section. Persons fishing in privately owned ponds, lakes, or 12206
reservoirs to or from which fish are not accustomed to migrate are 12207
exempt from the license requirements set forth in this section. 12208
Persons fishing in privately owned ponds, lakes, or reservoirs 12209
that are open to public fishing through an agreement or lease with 12210
the division of wildlife shall comply with the license 12211
requirements set forth in this section. 12212

The fee for an annual license shall be thirty-nine dollars 12213
for a resident of a state that is not a party to an agreement 12214
under section 1533.91 of the Revised Code. The fee for an annual 12215
license shall be eighteen dollars for a resident of a state that 12216
is a party to such an agreement. The fee for an annual license for 12217
residents of this state shall be eighteen dollars unless the rules 12218
adopted under division (B) of section 1533.12 of the Revised Code 12219
provide for issuance of a resident fishing license to the 12220
applicant free of charge. Except as provided in rules adopted 12221
under division (B)(2) of that section, each applicant who is a 12222
resident of this state and who at the time of application is 12223
sixty-six years of age or older shall procure a special senior 12224
fishing license, the fee for which shall be one-half of the annual 12225
resident fishing license fee. 12226

Any person under the age of sixteen years may take or catch 12227
frogs and turtles and take or catch fish by angling without a 12228

license. 12229

The chief of the division of wildlife may issue a tourist's 12230
license expiring three days from the effective date of the license 12231
to a resident of a state that is not a party to an agreement under 12232
section 1533.91 of the Revised Code. The fee for a tourist's 12233
license shall be eighteen dollars. 12234

The chief shall adopt rules under section 1531.10 of the 12235
Revised Code providing for the issuance of a one-day fishing 12236
license to a resident of this state or of any other state. The fee 12237
for such a license shall be fifty-five per cent of the amount 12238
established under this section for a tourist's license, rounded up 12239
to the nearest whole dollar. A one-day fishing license shall allow 12240
the holder to take or catch fish by angling in the waters in the 12241
state, engage in fishing in those waters, or take or catch frogs 12242
or turtles in those waters for one day without obtaining an annual 12243
license or a tourist's license under this section. At the request 12244
of a holder of a one-day fishing license who wishes to obtain an 12245
annual license, a clerk or agent authorized to issue licenses 12246
under section 1533.13 of the Revised Code, not later than the last 12247
day on which the one-day license would be valid if it were an 12248
annual license, shall credit the amount of the fee paid for the 12249
one-day license toward the fee charged for the annual license if 12250
so authorized by the chief. The clerk or agent shall issue the 12251
annual license upon presentation of the one-day license and 12252
payment of a fee in an amount equal to the difference between the 12253
fee for the annual license and the fee for the one-day license. 12254

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Unless otherwise provided by division rule, each annual 12256
license shall begin on the first day of March of the current year 12257
and expire on the last day of February of the following year. 12258

No person shall alter a fishing license or possess a fishing 12259

license that has been altered. 12260

No person shall procure or attempt to procure a fishing 12261
license by fraud, deceit, misrepresentation, or any false 12262
statement. 12263

Owners of land over, through, upon, or along which any water 12264
flows or stands, except where the land is in or borders on state 12265
parks or state-owned lakes, together with the members of the 12266
immediate families of such owners, may take frogs and turtles and 12267
may take or catch fish of the kind permitted to be taken or caught 12268
therefrom without procuring a license provided for in this 12269
section. This exemption extends to tenants actually residing upon 12270
such lands and to the members of the immediate families of the 12271
tenants. Residents of state or county institutions, charitable 12272
institutions, and military homes in this state may take frogs and 12273
turtles without procuring the required license, provided that a 12274
member of the institution or home has an identification card, 12275
which shall be carried on that person when fishing. 12276

Every fisher required to be licensed, while fishing or taking 12277
or attempting to take frogs or turtles, shall carry the license 12278
and exhibit it to any person. Failure to so carry and exhibit the 12279
license constitutes an offense under this section. 12280

Sec. 1541.03. All lands and waters dedicated and set apart 12281
for state park purposes shall be under the control and management 12282
of the division of parks and recreation, which shall protect, 12283
maintain, and keep them in repair. The division shall have the 12284
following powers over all such lands and waters: 12285

(A) To make alterations and improvements; 12286

(B) To construct and maintain dikes, wharves, landings, 12287
docks, dams, and other works; 12288

(C) To construct and maintain roads and drives in, around, 12289

upon, and to the lands and waters to make them conveniently
accessible and useful to the public;

(D) ~~To~~ Except as otherwise provided in this section, to
adopt, amend, and rescind, in accordance with Chapter 119. of the
Revised Code, rules necessary for the proper management of state
parks, bodies of water, and the lands adjacent to them under its
jurisdiction and control, including the following:

(1) Governing opening and closing times and dates of the
parks;

(2) Establishing fees and charges for ~~admission to state
parks and for~~ use of facilities in ~~them~~ state parks;

(3) Governing camps, camping, and fees for camps and camping;

(4) Governing the application for and rental of, rental fees
for, and the use of cabins;

(5) Relating to public use of state park lands, and governing
the operation of motor vehicles, including speeds, and parking on
those lands;

(6) Governing all advertising within state parks and the
requirements for the operation of places selling tangible personal
property and control of food service sales on lands and waters
under the control of the division, which rules shall establish
uniform requirements;

(7) Providing uniform standards relating to the size, type,
location, construction, and maintenance of structures and devices
used for fishing or moorage of watercraft, rowboats, sailboats,
and powercraft, as those terms are defined in section 1547.01 of
the Revised Code, over waters under the control of the division
and establishing reasonable fees for the construction of and
annual use permits for those structures and devices;

(8) Governing state beaches, swimming, inflatable devices,

and fees for them;

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(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;

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(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.

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The division shall adopt rules under this section establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

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The division shall not adopt rules establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

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Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of the resident's or veteran's disability as the chief of the division of parks and recreation prescribes by rule.

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~~Every~~ Unless otherwise provided by division rule, every resident of this state who is sixty-five years of age or older or

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who is permanently and totally disabled and who furnishes evidence 12351
of that age or disability in a manner prescribed by division rule 12352
shall be charged one-half of the regular fee for camping, except 12353
on the weekends and holidays designated by the division. ~~Such a~~ 12354
~~person, and~~ shall not be charged more than ninety per cent of the 12355
regular charges for state recreational facilities, equipment, 12356
services, and food service operations utilized by the person at 12357
any time of year, whether maintained or operated by the state or 12358
leased for operation by another entity. 12359

As used in this section, "food service operations" means 12360
restaurants that are owned by the department of natural resources 12361
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 12362
parks or are part of a state park lodge. "Food service operations" 12363
does not include automatic vending machines, concession stands, or 12364
snack bars. 12365

As used in this section, "prisoner of war" means any 12366
regularly appointed, enrolled, enlisted, or inducted member of the 12367
military forces of the United States who was captured, separated, 12368
and incarcerated by an enemy of the United States. Any person who 12369
has been a prisoner of war, was honorably discharged from the 12370
military forces, and is a resident of this state is exempt from 12371
the fees for camping. To claim this exemption, the person shall 12372
present written evidence in the form of a record of separation, a 12373
letter from one of the military forces of the United States, or 12374
such other evidence as the chief prescribes by rule that satisfies 12375
the eligibility criteria established by this section. 12376

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of 12377
the Revised Code: 12378

(A) "Eligible project" means a project that involves the 12379
acquisition, construction, establishment, reconstruction, 12380
rehabilitation, renovation, enlargement, improvement, equipping, 12381

<u>furnishing, or development of either of the following:</u>	12382
<u>(1) Marine recreational facilities;</u>	12383
<u>(2) Refuge harbors and other projects for the harboring,</u>	12384
<u>mooring, docking, launching, and storing of light draft vessels.</u>	12385
<u>(B) "Marine recreational facilities," "refuge harbors,"</u>	12386
<u>"light draft vessels," and "allowable costs" have the meanings</u>	12387
<u>established in rules adopted under section 1547.723 of the Revised</u>	12388
<u>Code.</u>	12389
<u>(C) "Revolving loan program" means the loan program</u>	12390
<u>established under sections 1547.721 to 1547.726 of the Revised</u>	12391
<u>Code.</u>	12392
<u>(D) "State agency" has the same meaning as in section 9.66 of</u>	12393
<u>the Revised Code.</u>	12394
<u>Sec. 1547.722. There is hereby created in the state treasury</u>	12395
<u>the watercraft revolving loan fund consisting of money</u>	12396
<u>appropriated or transferred to it, money received and credited to</u>	12397
<u>the fund under section 1547.726 of the Revised Code, and any</u>	12398
<u>grants, gifts, or contributions of moneys received for deposit to</u>	12399
<u>the credit of the fund.</u>	12400
<u>The director of natural resources shall use money in the</u>	12401
<u>watercraft revolving loan fund for the purpose of making loans</u>	12402
<u>under section 1547.724 of the Revised Code for eligible projects</u>	12403
<u>and taking actions under sections 1547.721 to 1547.726 of the</u>	12404
<u>Revised Code necessary to fulfill that purpose. The director may</u>	12405
<u>establish separate accounts in the fund for particular projects or</u>	12406
<u>otherwise. Income from the investment of money in the fund shall</u>	12407
<u>be credited to the fund, and, if the director so requires, to</u>	12408
<u>particular accounts in the fund.</u>	12409
<u>Sec. 1547.723. (A) The director of natural resources shall</u>	12410

adopt rules under Chapter 119. of the Revised Code that the 12411
director determines to be necessary for the implementation of the 12412
revolving loan program. The rules shall include a definition of 12413
what constitutes "allowable costs" of an eligible project for 12414
purposes of the program together with a definition of "marine 12415
recreational facilities," "refuge harbors," and "light draft 12416
vessels," respectively. 12417

(B) The director may delegate any of the director's duties or 12418
responsibilities under sections 1547.721 to 1547.726 of the 12419
Revised Code to the chief of the division of watercraft. 12420

Sec. 1547.724. (A) With the approval of the controlling 12421
board, and subject to the other applicable provisions of sections 12422
1547.721 to 1547.726 of the Revised Code, the director of natural 12423
resources may lend moneys in the watercraft revolving loan fund to 12424
public or private entities for the purpose of paying the allowable 12425
costs of an eligible project. Loans shall be made under this 12426
division only if the director determines that all of the following 12427
apply: 12428

(1) The project is an eligible project and is economically 12429
sound; 12430

(2) The borrower is unable to finance the necessary allowable 12431
costs through ordinary financial channels upon comparable terms; 12432

(3) The repayment of the loan will be adequately secured by a 12433
mortgage, lien, assignment, or pledge at a level of priority as 12434
the director may require; 12435

(4) The amount of the loan does not exceed ninety per cent of 12436
the total cost of the project. 12437

(B) The determinations of the director under division (A) of 12438
this section shall be conclusive for purposes of the validity of a 12439

loan commitment evidenced by a loan agreement signed by the 12440
director. Further, the director's determinations that a project 12441
constitutes an eligible project and that the costs of such a 12442
project are allowable costs, together with all other 12443
determinations relevant to the project or to an action taken or 12444
agreement entered into under sections 1547.721 to 1547.726 of the 12445
Revised Code shall be conclusive for purposes of the validity and 12446
enforceability of rights of parties arising from actions taken and 12447
agreements entered into under those sections. 12448

(C) The director may take any actions necessary or 12449
appropriate with respect to a loan made under this section, 12450
including facilitating the collection of amounts due on a loan. 12451

Sec. 1547.725. For purposes of the revolving loan program, 12452
the director of natural resources may do any of the following: 12453

(A) Establish fees, charges, rates of interest, times of 12454
payment of interest and principal, and other terms, conditions, 12455
and provisions of and security for loans made from the watercraft 12456
revolving loan fund that the director determines to be appropriate 12457
and in furtherance of the purpose for which the loans are made; 12458

(B) Retain the services of or employ financial consultants, 12459
appraisers, consulting engineers, superintendents, managers, 12460
construction and accounting experts, attorneys, and employees, 12461
agents, and independent contractors that the director determines 12462
to be necessary and fix the compensation for their services; 12463

(C) Receive and accept from any person grants, gifts, 12464
contributions of money, property, labor, and other things of value 12465
to be held, used, and applied only for the purpose for which such 12466
grants, gifts, and contributions are made; 12467

(D) Enter into appropriate agreements with other governmental 12468
entities to provide for all of the following: 12469

(1) Payment of allowable costs related to the development of eligible projects for which loans have been made from the watercraft revolving loan fund; 12470
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(2) Any governmental action a governmental entity is authorized to take, including undertaking on behalf and at the request of the director any action that the director is authorized to undertake pursuant to sections 1547.721 to 1547.725 of the Revised Code; 12473
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(3) The operation of facilities associated with eligible projects. 12478
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All state agencies shall cooperate with and provide assistance to the director as is necessary for the administration of sections 1547.721 to 1547.726 of the Revised Code. 12480
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Sec. 1547.726. All money received by the state from the repayment of loans made from the watercraft revolving loan fund, including interest, fees, and charges associated with such loans, shall be deposited to the credit of the watercraft revolving loan fund. 12483
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Sec. 1548.06. (A)(1) Application for a certificate of title for a watercraft or outboard motor shall be made upon a form prescribed by the chief of the division of watercraft and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the chief in any county with the clerk of the court of common pleas of that county. The application shall be accompanied by the fee prescribed in section 1548.10 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a 12488
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clerk of a court of common pleas, other than the clerk of the 12500
court of common pleas of an applicant's county of residence, 12501
issues a certificate of title to the applicant, the clerk shall 12502
transmit data related to the transaction to the automated title 12503
processing system. 12504

(2) If a certificate of title previously has been issued for 12505
the watercraft or outboard motor, the application for a 12506
certificate of title also shall be accompanied by the certificate 12507
of title duly assigned unless otherwise provided in this chapter. 12508
If a certificate of title previously has not been issued for the 12509
watercraft or outboard motor in this state, the application, 12510
unless otherwise provided in this chapter, shall be accompanied by 12511
a manufacturer's or importer's certificate; by a sworn statement 12512
of ownership if the watercraft or outboard motor was purchased by 12513
the applicant on or before October 9, 1963, or if the watercraft 12514
is less than fourteen feet long with a permanently affixed 12515
mechanical means of propulsion and was purchased by the applicant 12516
on or before January 1, 2000; or by a certificate of title, bill 12517
of sale, or other evidence of ownership required by the law of 12518
another state from which the watercraft or outboard motor was 12519
brought into this state. Evidence of ownership of a watercraft or 12520
outboard motor for which an Ohio certificate of title previously 12521
has not been issued and which watercraft or outboard motor does 12522
not have permanently affixed to it a manufacturer's serial number 12523
shall be accompanied by the certificate of assignment of a hull 12524
identification number assigned by the chief as provided in section 12525
1548.07 of the Revised Code. 12526

(3) The clerk shall retain the evidence of title presented by 12527
the applicant and on which the certificate of title is issued, 12528
except that, if an application for a certificate of title is filed 12529
electronically, by a vendor on behalf of a purchaser of a 12530
watercraft or outboard motor, the clerk shall retain the completed 12531

electronic record to which the vendor converted the certificate of 12532
title application and other required documents. The chief, after 12533
consultation with the attorney general, shall adopt rules that 12534
govern the location at which, and the manner in which, are stored 12535
the actual application and all other documents relating to the 12536
sale of a watercraft or outboard motor when a vendor files the 12537
application for a certificate of title electronically on behalf of 12538
a purchaser. 12539

(B) The clerk shall use reasonable diligence in ascertaining 12540
whether the facts in the application are true by checking the 12541
application and documents accompanying it or the electronic record 12542
to which a vendor converted the application and accompanying 12543
documents with the records of watercraft and outboard motors in 12544
the clerk's office. If the clerk is satisfied that the applicant 12545
is the owner of the watercraft or outboard motor and that the 12546
application is in the proper form, the clerk shall issue a 12547
physical certificate of title over the clerk's signature and 12548
sealed with the clerk's seal unless the applicant specifically 12549
requests the clerk not to issue a physical certificate of title 12550
and instead to issue an electronic certificate of title. However, 12551
if the evidence indicates and an investigation shows that one or 12552
more Ohio titles already exist for the watercraft or outboard 12553
motor, the chief may cause the redundant title or titles to be 12554
canceled. 12555

(C) In the case of the sale of a watercraft or outboard motor 12556
by a vendor to a general purchaser or user, the certificate of 12557
title shall be obtained in the name of the purchaser by the vendor 12558
upon application signed by the purchaser. In all other cases, the 12559
certificate shall be obtained by the purchaser. In all cases of 12560
transfer of watercraft or outboard motors, the application for 12561
certificate of title shall be filed within thirty days after the 12562
later of the date of purchase or assignment of ownership of the 12563

watercraft or outboard motor. If the application for certificate 12564
of title is not filed within thirty days after the later of the 12565
date of purchase or assignment of ownership of the watercraft or 12566
outboard motor, the clerk shall charge a late penalty fee of five 12567
dollars in addition to the fee prescribed by section 1548.10 of 12568
the Revised Code. The clerk shall retain the entire amount of each 12569
late penalty fee. 12570

(D) The clerk shall refuse to accept an application for 12571
certificate of title unless the applicant either tenders with the 12572
application payment of all taxes levied by or pursuant to Chapter 12573
5739. or 5741. of the Revised Code based on the applicant's county 12574
of residence less, in the case of a sale by a vendor, any discount 12575
to which the vendor is entitled under section 5739.12 of the 12576
Revised Code, or submits any of the following: 12577

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of 12578
courts showing payment of the tax; 12579

~~(B)~~(2) A copy of the unit certificate of exemption completed 12580
by the purchaser at the time of sale as provided in section 12581
5739.03 of the Revised Code; 12582

~~(C)~~(3) An exemption certificate, in a form prescribed by the 12583
tax commissioner, that specifies why the purchase is not subject 12584
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 12585

Payment of the tax shall be in accordance with rules issued 12586
by the tax commissioner, and the clerk shall issue a receipt in 12587
the form prescribed by the tax commissioner to any applicant who 12588
tenders payment of the tax with the application for the 12589
certificate of title. 12590

(E)(1) For receiving and disbursing the taxes paid to the 12591
clerk by a resident of the clerk's county, the clerk may retain a 12592
poundage fee of one and one one-hundredth per cent of the taxes 12593
collected, which shall be paid into the certificate of title 12594

administration fund created by section 325.33 of the Revised Code. 12595
The clerk shall not retain a poundage fee from payments of taxes 12596
by persons who do not reside in the clerk's county. 12597

(2) A clerk, however, may retain from the taxes paid to the 12598
clerk an amount equal to the poundage fees associated with 12599
certificates of title issued by other clerks of courts of common 12600
pleas to applicants who reside in the first clerk's county. The 12601
chief of the division of watercraft, in consultation with the tax 12602
commissioner and the clerks of the courts of common pleas, shall 12603
develop a report from the automated title processing system that 12604
informs each clerk of the amount of the poundage fees that the 12605
clerk is permitted to retain from those taxes because of 12606
certificates of title issued by the clerks of other counties to 12607
applicants who reside in the first clerk's county. 12608

(F) In the case of casual sales of watercraft or outboard 12609
motors that are subject to the tax imposed by Chapter 5739. or 12610
5741. of the Revised Code, the purchase price for the purpose of 12611
determining the tax shall be the purchase price on an affidavit 12612
executed and filed with the clerk by the vendor on a form to be 12613
prescribed by the chief, which shall be prima-facie evidence of 12614
the price for the determination of the tax. In addition to the 12615
information required by section 1548.08 of the Revised Code, each 12616
certificate of title shall contain in bold lettering the following 12617
notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE 12618
(SELLER AND BUYER). You are required by law to state the true 12619
selling price. A false statement is a violation of section 2921.13 12620
of the Revised Code and is punishable by six months imprisonment 12621
or a fine of up to one thousand dollars, or both. All transfers 12622
are audited by the department of taxation. The seller and buyer 12623
must provide any information requested by the department of 12624
taxation. The buyer may be assessed any additional tax found to be 12625
due." 12626

~~The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner may require.~~ (G) Each county clerk of courts shall forward to the treasurer of state all sales and use tax collections resulting from sales of titled watercraft and outboard motors during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under this division shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under this division, the clerk shall forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(H) For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 1711.53. (A)(1) No person shall operate an amusement

ride within the state without a permit issued by the director of 12658
agriculture under division (A)(2) of this section. The owner of an 12659
amusement ride, whether the ride is a temporary amusement ride or 12660
a permanent amusement ride, who desires to operate the amusement 12661
ride within the state shall, prior to the operation of the 12662
amusement ride and annually thereafter, submit to the department 12663
of agriculture an application for a permit, together with the 12664
appropriate permit and inspection fee, on a form to be furnished 12665
by the department. Prior to issuing any permit the department 12666
shall, within thirty days after the date on which it receives the 12667
application, inspect each amusement ride described in the 12668
application. The owner of an amusement ride shall have the 12669
amusement ride ready for inspection not later than two hours after 12670
the time that is requested by the person for the inspection. 12671

(2) For each amusement ride found to comply with the rules 12672
adopted by the director under division (B) of this section and 12673
division (B) of section 1711.551 of the Revised Code, the director 12674
shall issue an annual permit, provided that evidence of liability 12675
insurance coverage for the amusement ride as required by section 12676
1711.54 of the Revised Code is on file with the department. 12677

(3) The director shall issue with each permit a decal 12678
indicating that the amusement ride has been issued the permit. The 12679
owner of the amusement ride shall affix the decal on the ride at a 12680
location where the decal is easily visible to the patrons of the 12681
ride. A copy of the permit shall be kept on file at the same 12682
address as the location of the amusement ride identified on the 12683
permit, and shall be made available for inspection, upon 12684
reasonable demand, by any person. An owner may operate an 12685
amusement ride prior to obtaining a permit, provided that the 12686
operation is for the purpose of testing the amusement ride or 12687
training amusement ride operators and other employees of the owner 12688
and the amusement ride is not open to the public. 12689

(B) The director, in accordance with Chapter 119. of the 12690
Revised Code, shall adopt rules providing for a schedule of fines, 12691
with no fine exceeding five thousand dollars, for violations of 12692
sections 1711.50 to 1711.57 of the Revised Code or any rules 12693
adopted under this division and for the classification of 12694
amusement rides and rules for the safe operation and inspection of 12695
all amusement rides as are necessary for amusement ride safety and 12696
for the protection of the general public. Rules adopted by the 12697
director for the safe operation and inspection of amusement rides 12698
shall be reasonable and based upon generally accepted engineering 12699
standards and practices. In adopting rules under this section, the 12700
director may adopt by reference, in whole or in part, the national 12701
fire code or the national electrical code prepared by the national 12702
fire protection association, the standards of ASTM or the American 12703
national standards institute, or any other principles, tests, or 12704
standards of nationally recognized technical or scientific 12705
authorities. Insofar as is practicable and consistent with 12706
sections 1711.50 to 1711.57 of the Revised Code, rules adopted 12707
under this division shall be consistent with the rules of other 12708
states. The department shall cause sections 1711.50 to 1711.57 of 12709
the Revised Code and the rules adopted in accordance with this 12710
division and division (B) of section 1711.551 of the Revised Code 12711
to be published in pamphlet form and a copy to be furnished 12712
without charge to each owner of an amusement ride who holds a 12713
current permit or is an applicant therefor. 12714

(C) With respect to an application for a permit for an 12715
amusement ride, an owner may apply to the director for a waiver or 12716
modification of any rule adopted under division (B) of this 12717
section if there are practical difficulties or unnecessary 12718
hardships for the amusement ride to comply with the rules. Any 12719
application shall set forth the reasons for the request. The 12720
director, with the approval of the advisory council on amusement 12721

ride safety, may waive or modify the application of a rule to any 12722
amusement ride if the public safety is secure. Any authorization 12723
by the director under this division shall be in writing and shall 12724
set forth the conditions under which the waiver or modification is 12725
authorized, and the department shall retain separate records of 12726
all proceedings under this division. 12727

(D)(1) The director shall employ and provide for training of 12728
a chief inspector and additional inspectors and employees as may 12729
be necessary to administer and enforce sections 1711.50 to 1711.57 12730
of the Revised Code. The director may appoint or contract with 12731
other persons to perform inspections of amusement rides, provided 12732
that the persons meet the qualifications for inspectors 12733
established by rules adopted under division (B) of this section 12734
and are not owners, or employees of owners, of any amusement ride 12735
subject to inspection under sections 1711.50 to 1711.57 of the 12736
Revised Code. No person shall inspect an amusement ride who, 12737
within six months prior to the date of inspection, was an employee 12738
of the owner of the ride. 12739

(2) Before the director contracts with other persons to 12740
inspect amusement rides, the director shall seek the advice of the 12741
advisory council on amusement ride safety on whether to contract 12742
with those persons. The advice shall not be binding upon the 12743
director. After having received the advice of the council, the 12744
director may proceed to contract with inspectors in accordance 12745
with the procedures specified in division (E)(2) of section 12746
1711.11 of the Revised Code. 12747

(3) With the advice and consent of the advisory council on 12748
amusement ride safety, the director may employ a special 12749
consultant to conduct an independent investigation of an amusement 12750
ride accident. This consultant need not be in the civil service of 12751
the state, but shall have qualifications to conduct the 12752
investigation acceptable to the council. 12753

(E)(1) Except as otherwise provided in division (E)(1) of		12754
this section, the department shall charge the following amusement		12755
ride fees:		12756
Permit	\$ 50 <u>\$ 150</u>	12757
Annual inspection and reinspection per ride:		12758
Kiddie rides	\$ 100	12759
Roller coaster	\$ 950	12760
Aerial lifts or bungee		12761
jumping facilities	\$ 450	12762
Go karts	\$ 5	12763
Other rides	\$ 160	12764
Midseason operational inspection per ride	\$ 25	12765
Expedited inspection per ride	\$ 100	12766
Failure to cancel scheduled inspection per ride	\$ 100	12767
Failure to have amusement ride ready for		12768
inspection per ride	\$100	12769
The go kart inspection fee is in addition to the inspection		12770
fee for the go kart track.		12771
The fees for an expedited inspection, failure to cancel a		12772
scheduled inspection, and failure to have an amusement ride ready		12773
for inspection do not apply to go karts.		12774
As used in division (E)(1) of this section, "expedited		12775
inspection" means an inspection of an amusement ride by the		12776
department not later than ten days after the owner of the		12777
amusement ride files an application for a permit under this		12778
section.		12779
(2) All fees and fines collected by the department under		12780
sections 1711.50 to 1711.57 of the Revised Code shall be deposited		12781
in the state treasury to the credit of the amusement ride		12782
inspection fund, which is hereby created, and shall be used only		12783
for the purpose of administering and enforcing sections 1711.11		12784

and 1711.50 to 1711.57 of the Revised Code. 12785

(3) The owner of an amusement ride shall be required to pay a 12786
reinspection fee only if the reinspection was conducted at the 12787
owner's request under division (F) of this section, if the 12788
reinspection is required by division (F) of this section because 12789
of an accident, or if the reinspection is required by division (F) 12790
of section 1711.55 of the Revised Code. If a reinspection is 12791
conducted at the request of the chief officer of a fair, festival, 12792
or event where the ride is operating, the reinspection fee shall 12793
be charged to the fair, festival, or event. 12794

(4) The rules adopted under division (B) of this section 12795
shall define "kiddie rides," "roller coaster," "aerial lifts," "go 12796
karts," and "other rides" for purposes of determining the fees 12797
under division (E) of this section. The rules shall define "other 12798
rides" to include go kart tracks. 12799

(F) A reinspection of an amusement ride shall take place if 12800
an accident occurs, if the owner of the ride or the chief officer 12801
of the fair, festival, or event where the ride is operating 12802
requests a reinspection, or if the reinspection is required by 12803
division (F) of section 1711.55 of the Revised Code. 12804

(G) As a supplement to its annual inspection of a temporary 12805
amusement ride, the department may inspect the ride during each 12806
scheduled event, as listed in the schedule of events provided to 12807
the department by the owner pursuant to division (C) of section 12808
1711.55 of the Revised Code, at which the ride is operated in this 12809
state. These supplemental inspections are in addition to any other 12810
inspection or reinspection of the ride as may be required under 12811
sections 1711.50 to 1711.57 of the Revised Code, and the owner of 12812
the temporary amusement ride is not required to pay an inspection 12813
or reinspection fee for this supplemental inspection. Nothing in 12814
this division shall be construed to prohibit the owner of a 12815

temporary amusement ride having a valid permit to operate in this 12816
state from operating the ride at a scheduled event before the 12817
department conducts a supplemental inspection. 12818

(H) The department may annually conduct a midseason 12819
operational inspection of every amusement ride upon which it 12820
conducts an annual inspection pursuant to division (A) of this 12821
section. The midseason operational inspection is in addition to 12822
any other inspection or reinspection of the amusement ride as may 12823
be required pursuant to sections 1711.50 to 1711.57 of the Revised 12824
Code. The owner of an amusement ride shall submit to the 12825
department, at the time determined by the department, the 12826
midseason operational inspection fee specified in division (E) of 12827
this section. The director, in accordance with Chapter 119. of the 12828
Revised Code, shall adopt rules specifying the time period during 12829
which the department will conduct midseason operational 12830
inspections. 12831

Sec. 1713.03. The Ohio board of regents shall establish 12832
standards for certificates of authorization to be issued to 12833
institutions as defined in section 1713.01 of the Revised Code, to 12834
private institutions exempt from regulation under Chapter 3332. of 12835
the Revised Code as prescribed in section 3333.046 of the Revised 12836
Code, and to schools holding certificates of registration issued 12837
by the state board of career colleges and schools pursuant to 12838
division (C) of section 3332.05 of the Revised Code. A certificate 12839
of authorization may permit an institution or school to award one 12840
or more types of degrees. 12841

The standards for a certificate of authorization may include, 12842
for various types of institutions, schools, or degrees, minimum 12843
qualifications for faculty, library, laboratories, and other 12844
facilities as adopted and published by the Ohio board of regents. 12845
The standards shall be adopted by the board pursuant to Chapter 12846

119. of the Revised Code. 12847

An institution or school shall apply to the board for a 12848
certificate of authorization on forms containing such information 12849
as is prescribed by the board. Each institution or school with a 12850
certificate of authorization shall file an annual report with the 12851
board in such form and containing such information as the board 12852
prescribes. 12853

The board shall adopt a rule under Chapter 119. of the 12854
Revised Code establishing fees to pay the cost of reviewing an 12855
application for a certificate of authorization, which the 12856
institution or school shall pay when it applies for a certificate 12857
of authorization, and establishing fees, which an institution or 12858
school shall pay, for any further reviews the board determines 12859
necessary upon examining an institution's or school's annual 12860
report. 12861

Sec. 1751.03. (A) Each application for a certificate of 12862
authority under this chapter shall be verified by an officer or 12863
authorized representative of the applicant, shall be in a format 12864
prescribed by the superintendent of insurance, and shall set forth 12865
or be accompanied by the following: 12866

(1) A certified copy of the applicant's articles of 12867
incorporation and all amendments to the articles of incorporation; 12868

(2) A copy of any regulations adopted for the government of 12869
the corporation, any bylaws, and any similar documents, and a copy 12870
of all amendments to these regulations, bylaws, and documents. The 12871
corporate secretary shall certify that these regulations, bylaws, 12872
documents, and amendments have been properly adopted or approved. 12873

(3) A list of the names, addresses, and official positions of 12874
the persons responsible for the conduct of the applicant, 12875
including all members of the board, the principal officers, and 12876

the person responsible for completing or filing financial 12877
statements with the department of insurance, accompanied by a 12878
completed original biographical affidavit and release of 12879
information for each of these persons on forms acceptable to the 12880
department; 12881

(4) A full and complete disclosure of the extent and nature 12882
of any contractual or other financial arrangement between the 12883
applicant and any provider or a person listed in division (A)(3) 12884
of this section, including, but not limited to, a full and 12885
complete disclosure of the financial interest held by any such 12886
provider or person in any health care facility, provider, or 12887
insurer that has entered into a financial relationship with the 12888
health insuring corporation; 12889

(5) A description of the applicant, its facilities, and its 12890
personnel, including, but not limited to, the location, hours of 12891
operation, and telephone numbers of all contracted facilities; 12892

(6) The applicant's projected annual enrollee population over 12893
a three-year period; 12894

(7) A clear and specific description of the health care plan 12895
or plans to be used by the applicant, including a description of 12896
the proposed providers, procedures for accessing care, and the 12897
form of all proposed and existing contracts relating to the 12898
administration, delivery, or financing of health care services; 12899

(8) A copy of each type of evidence of coverage and 12900
identification card or similar document to be issued to 12901
subscribers; 12902

(9) A copy of each type of individual or group policy, 12903
contract, or agreement to be used; 12904

(10) The schedule of the proposed contractual periodic 12905
prepayments or premium rates, or both, accompanied by appropriate 12906

supporting data;	12907
(11) A financial plan which provides a three-year projection of operating results, including the projected expenses, income, and sources of working capital;	12908 12909 12910
(12) The enrollee complaint procedure to be utilized as required under section 1751.19 of the Revised Code;	12911 12912
(13) A description of the procedures and programs to be implemented on an ongoing basis to assure the quality of health care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code;	12913 12914 12915 12916 12917
(14) A statement describing the geographic area or areas to be served, by county;	12918 12919
(15) A copy of all solicitation documents;	12920
(16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support;	12921 12922 12923
(17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority;	12924 12925 12926 12927 12928
(18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial impact of these agreements on the applicant. If the applicant intends to enter into a contract for managerial or administrative services, with either an affiliated or an unaffiliated person, the applicant shall provide a copy of the contract and a detailed description of the person to provide these services. The description shall include that person's experience in managing or	12929 12930 12931 12932 12933 12934 12935 12936

administering health care plans, a copy of that person's most
recent audited financial statement, and a completed biographical
affidavit on a form acceptable to the superintendent for each of
that person's principal officers and board members and for any
additional employee to be directly involved in providing
managerial or administrative services to the health insuring
corporation. If the person to provide managerial or administrative
services is affiliated with the health insuring corporation, the
contract must provide for payment for services based on actual
costs.

(19) A statement from the applicant's board that the admitted
assets of the applicant have not been and will not be pledged or
hypothecated;

(20) A statement from the applicant's board that the
applicant will submit monthly financial statements during the
first year of operations;

(21) The name and address of the applicant's Ohio statutory
agent for service of process, notice, or demand;

(22) Copies of all documents the applicant filed with the
secretary of state;

(23) The location of those books and records of the applicant
that must be maintained, which books and records shall be
maintained in Ohio if the applicant is a domestic corporation, and
which may be maintained either in the applicant's state of
domicile or in Ohio if the applicant is a foreign corporation;

(24) The applicant's federal identification number, corporate
address, and mailing address;

(25) An internal and external organizational chart;

(26) A list of the assets representing the initial net worth
of the applicant;

(27) If the applicant has a parent company, the parent company's guaranty, on a form acceptable to the superintendent, that the applicant will maintain Ohio's minimum net worth. If no parent company exists, a statement regarding the availability of future funds if needed.

(28) The names and addresses of the applicant's actuary and external auditors;

(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 12997
conducts its business. 12998

(2) If the change or modification is to be the result of an 12999
action to be taken by the health insuring corporation, the notice 13000
shall be filed with the superintendent prior to the health 13001
insuring corporation taking the action. The action shall be deemed 13002
approved if the superintendent does not disapprove it within sixty 13003
days of filing. 13004

(3) The filing of a notice pursuant to division (B)(1) or (2) 13005
of this section shall also serve as the submission of a notice 13006
when required for the superintendent's review for purposes of 13007
section 3901.341 of the Revised Code, if the notice contains all 13008
of the information that section 3901.341 of the Revised Code 13009
requires for such submissions and a copy of any written agreement. 13010
The filing of such a notice, for the purpose of satisfying this 13011
division and section 3901.341 of the Revised Code, shall be 13012
subject to the sixty-day review period of division (B)(2) of this 13013
section. 13014

(C)(1) No health insuring corporation shall expand its 13015
approved service area until a copy of the request for expansion, 13016
accompanied by documentation of the network of providers, forms of 13017
all proposed or existing provider contracts relating to the 13018
delivery of health care services, a schedule of proposed 13019
contractual periodic prepayments and premium rates for group 13020
contracts accompanied by appropriate supporting data, enrollment 13021
projections, plan of operation, and any other changes have been 13022
filed with the superintendent. 13023

(2) Within ten calendar days after receipt of a complete 13024
filing under division (C)(1) of this section, the superintendent 13025
shall refer the appropriate jurisdictional issues to the director 13026
of health pursuant to section 1751.04 of the Revised Code. 13027

(3) Within seventy-five days after the superintendent's receipt of a complete filing under division (C)(1) of this section, the superintendent shall determine whether the plan for expansion is lawful, fair, and reasonable. The superintendent may not make a determination until the superintendent has received the director's certification of compliance, which the director shall furnish within forty-five days after referral under division (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 three 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 13059
under Chapter 3903. of the Revised Code, and shall become a 13060
special deposit subject to section 3903.14 or 3903.421 of the 13061
Revised Code, as applicable. In lieu of the performance bond, a 13062
medicaid health insuring corporation may deposit securities with 13063
the superintendent of insurance, acceptable to the superintendent, 13064
in the amount of three million dollars, to satisfy the bonding 13065
requirements of this section. Upon rehabilitation or liquidation, 13066
the securities shall become a special deposit subject to sections 13067
3903.14 and 3903.421 of the Revised Code, as applicable. The 13068
health insuring corporation shall receive the interest on the 13069
deposited securities as long as the health insuring corporation 13070
remains solvent. 13071

(B) The bond shall be issued by a surety company licensed 13072
with the department of insurance. The bond or deposit, or any 13073
replacement bond or deposit, shall be in a form acceptable to the 13074
superintendent, and shall remain in effect during the duration of 13075
the medicaid health insuring corporation's license and thereafter 13076
until all claims against the medicaid health insuring corporation 13077
have been paid in full. 13078

(C) Documentation of the bond acceptable to the 13079
superintendent of insurance shall be filed with the superintendent 13080
prior to the issuance of a certificate of authority. Annually, 13081
thirty days prior to the renewal of its certificate of authority, 13082
every medicaid health insuring corporation shall furnish the 13083
superintendent of insurance with evidence that the required bond 13084
is still in effect. 13085

(D) As used in this section: 13086

(1) "Contracted provider" means a provider that has a 13087
contract with a medicaid health insuring corporation to provide 13088
covered health care services to medicaid recipients. 13089

(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients. 13090
13091
13092

(3) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code. 13093
13094
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Sec. 1751.89. Sections 1751.77 to 1751.85 of the Revised Code do not apply to ~~either of the following:~~ 13096
13097

~~(A) Coverage coverage provided to beneficiaries enrolled in the medicare... choice advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~ 13098
13099
13100
13101

~~(B) Coverage provided to recipients of assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.~~ 13102
13103
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Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows: 13105
13106

(1) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (A)(9) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding. 13107
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(2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon affidavit or other evidence that a party is unable to make the required deposit. 13112
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(3) When a jury trial is demanded in any civil action or 13118

proceeding, the party making the demand may be required to make an
advance deposit as fixed by rule of court, unless, upon affidavit
or other evidence, the court concludes that the party is unable to
make the required deposit. If a jury is called, the fees of a jury
shall be taxed as costs.

(4) In any civil or criminal action or proceeding, witnesses'
fees shall be fixed in accordance with sections 2335.06 and
2335.08 of the Revised Code.

(5) A reasonable charge for driving, towing, carting,
storing, keeping, and preserving motor vehicles and other personal
property recovered or seized in any proceeding may be taxed as
part of the costs in a trial of the cause, in an amount that shall
be fixed by rule of court.

(6) Chattel property seized under any writ or process issued
by the court shall be preserved pending final disposition for the
benefit of all persons interested and may be placed in storage
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 13150
equipment, the hiring and training of staff, community service 13151
programs, mediation or dispute resolution services, the employment 13152
of magistrates, the training and education of judges, acting 13153
judges, and magistrates, and other related services. Upon that 13154
determination, the court by rule may charge a fee, in addition to 13155
all other court costs, on the filing of each criminal cause, civil 13156
action or proceeding, or judgment by confession. 13157

If the municipal court offers a special program or service in 13158
cases of a specific type, the municipal court by rule may assess 13159
an additional charge in a case of that type, over and above court 13160
costs, to cover the special program or service. The municipal 13161
court shall adjust the special assessment periodically, but not 13162
retroactively, so that the amount assessed in those cases does not 13163
exceed the actual cost of providing the service or program. 13164

All moneys collected under division (B) of this section shall 13165
be paid to the county treasurer if the court is a county-operated 13166
municipal court or to the city treasurer if the court is not a 13167
county-operated municipal court for deposit into either a general 13168
special projects fund or a fund established for a specific special 13169
project. Moneys from a fund of that nature shall be disbursed upon 13170
an order of the court in an amount no greater than the actual cost 13171
to the court of a project. If a specific fund is terminated 13172
because of the discontinuance of a program or service established 13173
under division (B) of this section, the municipal court may order 13174
that moneys remaining in the fund be transferred to an account 13175
established under this division for a similar purpose. 13176

(2) As used in division (B) of this section: 13177

(a) "Criminal cause" means a charge alleging the violation of 13178
a statute or ordinance, or subsection of a statute or ordinance, 13179
that requires a separate finding of fact or a separate plea before 13180

disposition and of which the defendant may be found guilty, 13181
whether filed as part of a multiple charge on a single summons, 13182
citation, or complaint or as a separate charge on a single 13183
summons, citation, or complaint. "Criminal cause" does not include 13184
separate violations of the same statute or ordinance, or 13185
subsection of the same statute or ordinance, unless each charge is 13186
filed on a separate summons, citation, or complaint. 13187

(b) "Civil action or proceeding" means any civil litigation 13188
that must be determined by judgment entry. 13189

(C) The municipal court shall collect in all its divisions 13190
except the small claims division the sum of ~~fifteen~~ twenty-five 13191
dollars as additional filing fees in each new civil action or 13192
proceeding for the charitable public purpose of providing 13193
financial assistance to legal aid societies that operate within 13194
the state. The municipal court shall collect in its small claims 13195
division the sum of ~~seven~~ ten dollars as additional filing fees in 13196
each new civil action or proceeding for the charitable public 13197
purpose of providing financial assistance to legal aid societies 13198
that operate within the state. This division does not apply to any 13199
execution on a judgment, proceeding in aid of execution, or other 13200
post-judgment proceeding arising out of a civil action. The filing 13201
fees required to be collected under this division shall be in 13202
addition to any other court costs imposed in the action or 13203
proceeding and shall be collected at the time of the filing of the 13204
action or proceeding. The court shall not waive the payment of the 13205
additional filing fees in a new civil action or proceeding unless 13206
the court waives the advanced payment of all filing fees in the 13207
action or proceeding. All such moneys collected during a month 13208
shall be transmitted on or before the ~~first business~~ twentieth day 13209
of ~~each~~ the following month by the clerk of the court to the 13210
treasurer of state in a manner prescribed by the treasurer of 13211
state or by the Ohio legal assistance foundation. The moneys then 13212

shall be deposited by the treasurer of state to the credit of the 13213
legal aid fund established under section 120.52 of the Revised 13214
Code. 13215

The court may retain up to one per cent of the moneys it 13216
collects under this division to cover administrative costs, 13217
including the hiring of any additional personnel necessary to 13218
implement this division. 13219

(D) In the Cleveland municipal court, reasonable charges for 13220
investigating titles of real estate to be sold or disposed of 13221
under any writ or process of the court may be taxed as part of the 13222
costs. 13223

(E) Under the circumstances described in sections 2969.21 to 13224
2969.27 of the Revised Code, the clerk of the municipal court 13225
shall charge the fees and perform the other duties specified in 13226
those sections. 13227

Sec. 1901.31. The clerk and deputy clerks of a municipal 13228
court shall be selected, be compensated, give bond, and have 13229
powers and duties as follows: 13230

(A) There shall be a clerk of the court who is appointed or 13231
elected as follows: 13232

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, 13233
~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county 13234
municipal courts, if the population of the territory equals or 13235
exceeds one hundred thousand at the regular municipal election 13236
immediately preceding the expiration of the term of the present 13237
clerk, the clerk shall be nominated and elected by the qualified 13238
electors of the territory in the manner that is provided for the 13239
nomination and election of judges in section 1901.07 of the 13240
Revised Code. 13241

The clerk so elected shall hold office for a term of six 13242

years, which term shall commence on the first day of January 13243
following the clerk's election and continue until the clerk's 13244
successor is elected and qualified. 13245

(b) In the Hamilton county municipal court, the clerk of 13246
courts of Hamilton county shall be the clerk of the municipal 13247
court and may appoint an assistant clerk who shall receive the 13248
compensation, payable out of the treasury of Hamilton county in 13249
semimonthly installments, that the board of county commissioners 13250
prescribes. The clerk of courts of Hamilton county, acting as the 13251
clerk of the Hamilton county municipal court and assuming the 13252
duties of that office, shall receive compensation at one-fourth 13253
the rate that is prescribed for the clerks of courts of common 13254
pleas as determined in accordance with the population of the 13255
county and the rates set forth in sections 325.08 and 325.18 of 13256
the Revised Code. This compensation shall be paid from the county 13257
treasury in semimonthly installments and is in addition to the 13258
annual compensation that is received for the performance of the 13259
duties of the clerk of courts of Hamilton county, as provided in 13260
sections 325.08 and 325.18 of the Revised Code. 13261

(c) In the Portage county and Wayne county municipal courts, 13262
the clerks of courts of Portage county and Wayne county shall be 13263
the clerks, respectively, of the Portage county and Wayne county 13264
municipal courts and may appoint a chief deputy clerk for each 13265
branch that is established pursuant to section 1901.311 of the 13266
Revised Code and assistant clerks as the judges of the municipal 13267
court determine are necessary, all of whom shall receive the 13268
compensation that the legislative authority prescribes. The clerks 13269
of courts of Portage county and Wayne county, acting as the clerks 13270
of the Portage county and Wayne county municipal courts and 13271
assuming the duties of these offices, shall receive compensation 13272
payable from the county treasury in semimonthly installments at 13273
one-fourth the rate that is prescribed for the clerks of courts of 13274

common pleas as determined in accordance with the population of 13275
the county and the rates set forth in sections 325.08 and 325.18 13276
of the Revised Code. 13277

(d) Except as otherwise provided in division (A)(1)(d) of 13278
this section, in the Akron municipal court, candidates for 13279
election to the office of clerk of the court shall be nominated by 13280
primary election. The primary election shall be held on the day 13281
specified in the charter of the city of Akron for the nomination 13282
of municipal officers. Notwithstanding section 3513.257 of the 13283
Revised Code, the nominating petitions of independent candidates 13284
shall be signed by at least two hundred fifty qualified electors 13285
of the territory of the court. 13286

The candidates shall file a declaration of candidacy and 13287
petition, or a nominating petition, whichever is applicable, not 13288
later than four p.m. of the seventy-fifth day before the day of 13289
the primary election, in the form prescribed by section 3513.07 or 13290
3513.261 of the Revised Code. The declaration of candidacy and 13291
petition, or the nominating petition, shall conform to the 13292
applicable requirements of section 3513.05 or 3513.257 of the 13293
Revised Code. 13294

If no valid declaration of candidacy and petition is filed by 13295
any person for nomination as a candidate of a particular political 13296
party for election to the office of clerk of the Akron municipal 13297
court, a primary election shall not be held for the purpose of 13298
nominating a candidate of that party for election to that office. 13299
If only one person files a valid declaration of candidacy and 13300
petition for nomination as a candidate of a particular political 13301
party for election to that office, a primary election shall not be 13302
held for the purpose of nominating a candidate of that party for 13303
election to that office, and the candidate shall be issued a 13304
certificate of nomination in the manner set forth in section 13305
3513.02 of the Revised Code. 13306

Declarations of candidacy and petitions, nominating 13307
petitions, and certificates of nomination for the office of clerk 13308
of the Akron municipal court shall contain a designation of the 13309
term for which the candidate seeks election. At the following 13310
regular municipal election, all candidates for the office shall be 13311
submitted to the qualified electors of the territory of the court 13312
in the manner that is provided in section 1901.07 of the Revised 13313
Code for the election of the judges of the court. The clerk so 13314
elected shall hold office for a term of six years, which term 13315
shall commence on the first day of January following the clerk's 13316
election and continue until the clerk's successor is elected and 13317
qualified. 13318

~~(e) Irrespective of the population of the territory of the 13319
Medina municipal court, the clerk of that court shall be appointed 13320
pursuant to division (A)(2)(a) of this section by the judges of 13321
that court, shall hold office until the clerk's successor is 13322
similarly appointed and qualified, and shall receive pursuant to 13323
division (C) of this section the annual compensation that the 13324
legislative authority prescribes and that is payable in 13325
semimonthly installments from the same sources and in the same 13326
manner as provided in section 1901.11 of the Revised Code. 13327~~

~~(f)~~ Except as otherwise provided in division (A)(1)~~(f)~~(e) of 13328
this section, in the Barberton municipal court, candidates for 13329
election to the office of clerk of the court shall be nominated by 13330
primary election. The primary election shall be held on the day 13331
specified in the charter of the city of Barberton for the 13332
nomination of municipal officers. Notwithstanding section 3513.257 13333
of the Revised Code, the nominating petitions of independent 13334
candidates shall be signed by at least two hundred fifty qualified 13335
electors of the territory of the court. 13336

The candidates shall file a declaration of candidacy and 13337
petition, or a nominating petition, whichever is applicable, not 13338

later than four p.m. of the seventy-fifth day before the day of
the primary election, in the form prescribed by section 3513.07 or
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 Barberton
municipal court, a primary election shall not be held for the
purpose of nominating a candidate of that party for election to
that office. If only one person files a valid declaration of
candidacy and petition for nomination as a candidate of a
particular political party for election to that office, a primary
election shall not be held for the purpose of nominating a
candidate of that party for election to that office, and the
candidate shall be issued a certificate of nomination in the
manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating
petitions, and certificates of nomination for the office of clerk
of the Barberton municipal court shall contain a designation of
the term for which the candidate seeks election. At the following
regular municipal election, all candidates for the office shall be
submitted to the qualified electors of the territory of the court
in the manner that is provided in section 1901.07 of the Revised
Code for the election of the judges of the court. The clerk so
elected shall hold office for a term of six years, which term
shall commence on the first day of January following the clerk's
election and continue until the clerk's successor is elected and
qualified.

~~(g)~~(f) Except as otherwise provided in division (A)(1)~~(g)~~(f)
of this section, in the Cuyahoga Falls municipal court, candidates

for election to the office of clerk of the court shall be 13371
nominated by primary election. The primary election shall be held 13372
on the day specified in the charter of the city of Cuyahoga Falls 13373
for the nomination of municipal officers. Notwithstanding section 13374
3513.257 of the Revised Code, the nominating petitions of 13375
independent candidates shall be signed by at least two hundred 13376
fifty qualified electors of the territory of the court. 13377

The candidates shall file a declaration of candidacy and 13378
petition, or a nominating petition, whichever is applicable, not 13379
later than four p.m. of the seventy-fifth day before the day of 13380
the primary election, in the form prescribed by section 3513.07 or 13381
3513.261 of the Revised Code. The declaration of candidacy and 13382
petition, or the nominating petition, shall conform to the 13383
applicable requirements of section 3513.05 or 3513.257 of the 13384
Revised Code. 13385

If no valid declaration of candidacy and petition is filed by 13386
any person for nomination as a candidate of a particular political 13387
party for election to the office of clerk of the Cuyahoga Falls 13388
municipal court, a primary election shall not be held for the 13389
purpose of nominating a candidate of that party for election to 13390
that office. If only one person files a valid declaration of 13391
candidacy and petition for nomination as a candidate of a 13392
particular political party for election to that office, a primary 13393
election shall not be held for the purpose of nominating a 13394
candidate of that party for election to that office, and the 13395
candidate shall be issued a certificate of nomination in the 13396
manner set forth in section 3513.02 of the Revised Code. 13397

Declarations of candidacy and petitions, nominating 13398
petitions, and certificates of nomination for the office of clerk 13399
of the Cuyahoga Falls municipal court shall contain a designation 13400
of the term for which the candidate seeks election. At the 13401
following regular municipal election, all candidates for the 13402

office shall be submitted to the qualified electors of the 13403
territory of the court in the manner that is provided in section 13404
1901.07 of the Revised Code for the election of the judges of the 13405
court. The clerk so elected shall hold office for a term of six 13406
years, which term shall commence on the first day of January 13407
following the clerk's election and continue until the clerk's 13408
successor is elected and qualified. 13409

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) 13410
of this section, in the Toledo municipal court, candidates for 13411
election to the office of clerk of the court shall be nominated by 13412
primary election. The primary election shall be held on the day 13413
specified in the charter of the city of Toledo for the nomination 13414
of municipal officers. Notwithstanding section 3513.257 of the 13415
Revised Code, the nominating petitions of independent candidates 13416
shall be signed by at least two hundred fifty qualified electors 13417
of the territory of the court. 13418

The candidates shall file a declaration of candidacy and 13419
petition, or a nominating petition, whichever is applicable, not 13420
later than four p.m. of the seventy-fifth day before the day of 13421
the primary election, in the form prescribed by section 3513.07 or 13422
3513.261 of the Revised Code. The declaration of candidacy and 13423
petition, or the nominating petition, shall conform to the 13424
applicable requirements of section 3513.05 or 3513.257 of the 13425
Revised Code. 13426

If no valid declaration of candidacy and petition is filed by 13427
any person for nomination as a candidate of a particular political 13428
party for election to the office of clerk of the Toledo municipal 13429
court, a primary election shall not be held for the purpose of 13430
nominating a candidate of that party for election to that office. 13431
If only one person files a valid declaration of candidacy and 13432
petition for nomination as a candidate of a particular political 13433
party for election to that office, a primary election shall not be 13434

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 Toledo 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.

(2)(a) Except for the Alliance, Auglaize county, Brown
county, Columbiana county, Lorain, Massillon, and Youngstown
municipal courts, in a municipal court for which the population of
the territory is less than one hundred thousand ~~and in the Medina
municipal court~~, the clerk shall be appointed by the court, and
the clerk shall hold office until the clerk's successor is
appointed and qualified.

(b) In the Alliance, Lorain, Massillon, and Youngstown
municipal courts, the clerk shall be elected for a term of office
as described in division (A)(1)(a) of this section.

(c) In the Auglaize county and Brown county municipal courts,
the clerks of courts of Auglaize county and Brown county shall be
the clerks, respectively, of the Auglaize county and Brown county
municipal courts and may appoint a chief deputy clerk for each
branch that is established pursuant to section 1901.311 of the

Revised Code, and assistant clerks as the judge of the court
determines are necessary, all of whom shall receive the
compensation that the legislative authority prescribes. The clerks
of courts of Auglaize county and Brown county, acting as the
clerks of the Auglaize county and Brown county municipal courts
and assuming the duties of these offices, shall receive
compensation payable from the county treasury in semimonthly
installments at one-fourth the rate that is prescribed for the
clerks of courts of common pleas as determined in accordance with
the population of the county and the rates set forth in sections
325.08 and 325.18 of the Revised Code.

(d) In the Columbiana county municipal court, the clerk of
courts of Columbiana county shall be the clerk of the municipal
court, may appoint a chief deputy clerk for each branch office
that is established pursuant to section 1901.311 of the Revised
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 13498
Youngstown municipal court or occurs in the office of the clerk of 13499
a municipal court for which the population of the territory equals 13500
or exceeds one hundred thousand because the clerk ceases to hold 13501
the office before the end of the clerk's term or because a 13502
clerk-elect fails to take office, the vacancy shall be filled, 13503
until a successor is elected and qualified, by a person chosen by 13504
the residents of the territory of the court who are members of the 13505
county central committee of the political party by which the last 13506
occupant of that office or the clerk-elect was nominated. Not less 13507
than five nor more than fifteen days after a vacancy occurs, those 13508
members of that county central committee shall meet to make an 13509
appointment to fill the vacancy. At least four days before the 13510
date of the meeting, the chairperson or a secretary of the county 13511
central committee shall notify each such member of that county 13512
central committee by first class mail of the date, time, and place 13513
of the meeting and its purpose. A majority of all such members of 13514
that county central committee constitutes a quorum, and a majority 13515
of the quorum is required to make the appointment. If the office 13516
so vacated was occupied or was to be occupied by a person not 13517
nominated at a primary election, or if the appointment was not 13518
made by the committee members in accordance with this division, 13519
the court shall make an appointment to fill the vacancy. A 13520
successor shall be elected to fill the office for the unexpired 13521
term at the first municipal election that is held more than one 13522
hundred twenty days after the vacancy occurred. 13523

(C)(1) In a municipal court, other than the Auglaize county, 13524
the Brown county, the Columbiana county, and the Lorain municipal 13525
courts, for which the population of the territory is less than one 13526
hundred thousand ~~and in the Medina municipal court~~, the clerk of 13527
the municipal court shall receive the annual compensation that the 13528
presiding judge of the court prescribes, if the revenue of the 13529
court for the preceding calendar year, as certified by the auditor 13530

or chief fiscal officer of the municipal corporation in which the 13531
court is located or, in the case of a county-operated municipal 13532
court, the county auditor, is equal to or greater than the 13533
expenditures, including any debt charges, for the operation of the 13534
court payable under this chapter from the city treasury or, in the 13535
case of a county-operated municipal court, the county treasury for 13536
that calendar year, as also certified by the auditor or chief 13537
fiscal officer. If the revenue of a municipal court, other than 13538
the Auglaize county, the Brown county, the Columbiana county, and 13539
the Lorain municipal courts, for which the population of the 13540
territory is less than one hundred thousand ~~or the revenue of the~~ 13541
~~Medina municipal court~~ for the preceding calendar year as so 13542
certified is not equal to or greater than those expenditures for 13543
the operation of the court for that calendar year as so certified, 13544
the clerk of a municipal court shall receive the annual 13545
compensation that the legislative authority prescribes. As used in 13546
this division, "revenue" means the total of all costs and fees 13547
that are collected and paid to the city treasury or, in a 13548
county-operated municipal court, the county treasury by the clerk 13549
of the municipal court under division (F) of this section and all 13550
interest received and paid to the city treasury or, in a 13551
county-operated municipal court, the county treasury in relation 13552
to the costs and fees under division (G) of this section. 13553

(2) In a municipal court, other than the Hamilton county, 13554
~~Medina~~, Portage county, and Wayne county municipal courts, for 13555
which the population of the territory is one hundred thousand or 13556
more, and in the Lorain municipal court, the clerk of the 13557
municipal court shall receive annual compensation in a sum equal 13558
to eighty-five per cent of the salary of a judge of the court. 13559

(3) The compensation of a clerk described in division (C)(1) 13560
or (2) of this section is payable in semimonthly installments from 13561
the same sources and in the same manner as provided in section 13562

1901.11 of the Revised Code. 13563

(D) Before entering upon the duties of the clerk's office, 13564
the clerk of a municipal court shall give bond of not less than 13565
six thousand dollars to be determined by the judges of the court, 13566
conditioned upon the faithful performance of the clerk's duties. 13567

(E) The clerk of a municipal court may do all of the 13568
following: administer oaths, take affidavits, and issue executions 13569
upon any judgment rendered in the court, including a judgment for 13570
unpaid costs; issue, sign, and attach the seal of the court to all 13571
writs, process, subpoenas, and papers issuing out of the court; 13572
and approve all bonds, sureties, recognizances, and undertakings 13573
fixed by any judge of the court or by law. The clerk may refuse to 13574
accept for filing any pleading or paper submitted for filing by a 13575
person who has been found to be a vexatious litigator under 13576
section 2323.52 of the Revised Code and who has failed to obtain 13577
leave to proceed under that section. The clerk shall do all of the 13578
following: file and safely keep all journals, records, books, and 13579
papers belonging or appertaining to the court; record the 13580
proceedings of the court; perform all other duties that the judges 13581
of the court may prescribe; and keep a book showing all receipts 13582
and disbursements, which book shall be open for public inspection 13583
at all times. 13584

The clerk shall prepare and maintain a general index, a 13585
docket, and other records that the court, by rule, requires, all 13586
of which shall be the public records of the court. In the docket, 13587
the clerk shall enter, at the time of the commencement of an 13588
action, the names of the parties in full, the names of the 13589
counsel, and the nature of the proceedings. Under proper dates, 13590
the clerk shall note the filing of the complaint, issuing of 13591
summons or other process, returns, and any subsequent pleadings. 13592
The clerk also shall enter all reports, verdicts, orders, 13593
judgments, and proceedings of the court, clearly specifying the 13594

relief granted or orders made in each action. The court may order 13595
an extended record of any of the above to be made and entered, 13596
under the proper action heading, upon the docket at the request of 13597
any party to the case, the expense of which record may be taxed as 13598
costs in the case or may be required to be prepaid by the party 13599
demanding the record, upon order of the court. 13600

(F) The clerk of a municipal court shall receive, collect, 13601
and issue receipts for all costs, fees, fines, bail, and other 13602
moneys payable to the office or to any officer of the court. The 13603
clerk shall each month disburse to the proper persons or officers, 13604
and take receipts for, all costs, fees, fines, bail, and other 13605
moneys that the clerk collects. Subject to sections 3375.50 and 13606
4511.193 of the Revised Code and to any other section of the 13607
Revised Code that requires a specific manner of disbursement of 13608
any moneys received by a municipal court and except for the 13609
Hamilton county, Lawrence county, and Ottawa county municipal 13610
courts, the clerk shall pay all fines received for violation of 13611
municipal ordinances into the treasury of the municipal 13612
corporation the ordinance of which was violated and shall pay all 13613
fines received for violation of township resolutions adopted 13614
pursuant to Chapter 504. of the Revised Code into the treasury of 13615
the township the resolution of which was violated. Subject to 13616
sections 1901.024 and 4511.193 of the Revised Code, in the 13617
Hamilton county, Lawrence county, and Ottawa county municipal 13618
courts, the clerk shall pay fifty per cent of the fines received 13619
for violation of municipal ordinances and fifty per cent of the 13620
fines received for violation of township resolutions adopted 13621
pursuant to Chapter 504. of the Revised Code into the treasury of 13622
the county. Subject to sections 3375.50, 3375.53, 4511.19, and 13623
5503.04 of the Revised Code and to any other section of the 13624
Revised Code that requires a specific manner of disbursement of 13625
any moneys received by a municipal court, the clerk shall pay all 13626

13627 fines collected for the violation of state laws into the county
13628 treasury. Except in a county-operated municipal court, the clerk
13629 shall pay all costs and fees the disbursement of which is not
13630 otherwise provided for in the Revised Code into the city treasury.
13631 The clerk of a county-operated municipal court shall pay the costs
13632 and fees the disbursement of which is not otherwise provided for
13633 in the Revised Code into the county treasury. Moneys deposited as
13634 security for costs shall be retained pending the litigation. The
13635 clerk shall keep a separate account of all receipts and
13636 disbursements in civil and criminal cases, which shall be a
13637 permanent public record of the office. On the expiration of the
13638 term of the clerk, the clerk shall deliver the records to the
13639 clerk's successor. The clerk shall have other powers and duties as
13640 are prescribed by rule or order of the court.

(G) 13641 All moneys paid into a municipal court shall be noted on
13642 the record of the case in which they are paid and shall be
13643 deposited in a state or national bank, or a domestic savings and
13644 loan association, as defined in section 1151.01 of the Revised
13645 Code, that is selected by the clerk. Any interest received upon
13646 the deposits shall be paid into the city treasury, except that, in
13647 a county-operated municipal court, the interest shall be paid into
13648 the treasury of the county in which the court is located.

13649 On the first Monday in January of each year, the clerk shall
13650 make a list of the titles of all cases in the court that were
13651 finally determined more than one year past in which there remains
13652 unclaimed in the possession of the clerk any funds, or any part of
13653 a deposit for security of costs not consumed by the costs in the
13654 case. The clerk shall give notice of the moneys to the parties who
13655 are entitled to the moneys or to their attorneys of record. All
13656 the moneys remaining unclaimed on the first day of April of each
13657 year shall be paid by the clerk to the city treasurer, except
13658 that, in a county-operated municipal court, the moneys shall be

paid to the treasurer of the county in which the court is located. 13659
The treasurer shall pay any part of the moneys at any time to the 13660
person who has the right to the moneys upon proper certification 13661
of the clerk. 13662

(H) Deputy clerks may be appointed by the clerk and shall 13663
receive the compensation, payable in semimonthly installments out 13664
of the city treasury, that the clerk may prescribe, except that 13665
the compensation of any deputy clerk of a county-operated 13666
municipal court shall be paid out of the treasury of the county in 13667
which the court is located. Each deputy clerk shall take an oath 13668
of office before entering upon the duties of the deputy clerk's 13669
office and, when so qualified, may perform the duties appertaining 13670
to the office of the clerk. The clerk may require any of the 13671
deputy clerks to give bond of not less than three thousand 13672
dollars, conditioned for the faithful performance of the deputy 13673
clerk's duties. 13674

(I) For the purposes of this section, whenever the population 13675
of the territory of a municipal court falls below one hundred 13676
thousand but not below ninety thousand, and the population of the 13677
territory prior to the most recent regular federal census exceeded 13678
one hundred thousand, the legislative authority of the municipal 13679
corporation may declare, by resolution, that the territory shall 13680
be considered to have a population of at least one hundred 13681
thousand. 13682

(J) The clerk or a deputy clerk shall be in attendance at all 13683
sessions of the municipal court, although not necessarily in the 13684
courtroom, and may administer oaths to witnesses and jurors and 13685
receive verdicts. 13686

Sec. 1907.24. (A) Subject to division (C) of this section, a 13687
county court shall fix and tax fees and costs as follows: 13688

(1) The county court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (C) of this section and, in all other cases, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.

(2) The county court by rule may require an advance deposit for the filing of a civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive an advance deposit requirement upon the presentation of an affidavit or other evidence that establishes that a party is unable to make the requisite deposit.

(3) When a party demands a jury trial in a civil action or proceeding, the county court may require the party to make an advance deposit as fixed by rule of court, unless the court concludes, on the basis of an affidavit or other evidence presented by the party, that the party is unable to make the requisite deposit. If a jury is called, the county court shall tax the fees of a jury as costs.

(4) In a civil or criminal action or proceeding, the county court shall fix the fees of witnesses in accordance with sections 2335.06 and 2335.08 of the Revised Code.

(5) A county court may tax as part of the costs in a trial of the cause, in an amount fixed by rule of court, a reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in a proceeding.

(6) The court shall preserve chattel property seized under a writ or process issued by the court pending final disposition for the benefit of all interested persons. The court may place the chattel property in storage when necessary or proper for its preservation. The custodian of chattel property so stored shall

not be required to part with the possession of the property until 13720
a reasonable charge, to be fixed by the court, is paid. 13721

(7) The county court, as it determines, may refund all 13722
deposits and advance payments of fees and costs, including those 13723
for jurors and summoning jurors, when they have been paid by the 13724
losing party. 13725

(8) The court may tax as part of costs charges for the 13726
publication of legal notices required by statute or order of 13727
court, as provided by section 7.13 of the Revised Code. 13728

(B)(1) The county court may determine that, for the efficient 13729
operation of the court, additional funds are necessary to acquire 13730
and pay for special projects of the court including, but not 13731
limited to, the acquisition of additional facilities or the 13732
rehabilitation of existing facilities, the acquisition of 13733
equipment, the hiring and training of staff, community service 13734
programs, mediation or dispute resolution services, the employment 13735
of magistrates, the training and education of judges, acting 13736
judges, and magistrates, and other related services. Upon that 13737
determination, the court by rule may charge a fee, in addition to 13738
all other court costs, on the filing of each criminal cause, civil 13739
action or proceeding, or judgment by confession. 13740

If the county court offers a special program or service in 13741
cases of a specific type, the county court by rule may assess an 13742
additional charge in a case of that type, over and above court 13743
costs, to cover the special program or service. The county court 13744
shall adjust the special assessment periodically, but not 13745
retroactively, so that the amount assessed in those cases does not 13746
exceed the actual cost of providing the service or program. 13747

All moneys collected under division (B) of this section shall 13748
be paid to the county treasurer for deposit into either a general 13749
special projects fund or a fund established for a specific special 13750

project. Moneys from a fund of that nature shall be disbursed upon 13751
an order of the court in an amount no greater than the actual cost 13752
to the court of a project. If a specific fund is terminated 13753
because of the discontinuance of a program or service established 13754
under division (B) of this section, the county court may order 13755
that moneys remaining in the fund be transferred to an account 13756
established under this division for a similar purpose. 13757

(2) As used in division (B) of this section: 13758

(a) "Criminal cause" means a charge alleging the violation of 13759
a statute or ordinance, or subsection of a statute or ordinance, 13760
that requires a separate finding of fact or a separate plea before 13761
disposition and of which the defendant may be found guilty, 13762
whether filed as part of a multiple charge on a single summons, 13763
citation, or complaint or as a separate charge on a single 13764
summons, citation, or complaint. "Criminal cause" does not include 13765
separate violations of the same statute or ordinance, or 13766
subsection of the same statute or ordinance, unless each charge is 13767
filed on a separate summons, citation, or complaint. 13768

(b) "Civil action or proceeding" means any civil litigation 13769
that must be determined by judgment entry. 13770

(C) Subject to division (E) of this section, the county court 13771
shall collect in all its divisions except the small claims 13772
division the sum of ~~fifteen~~ twenty-five dollars as additional 13773
filing fees in each new civil action or proceeding for the 13774
charitable public purpose of providing financial assistance to 13775
legal aid societies that operate within the state. Subject to 13776
division (E) of this section, the county court shall collect in 13777
its small claims division the sum of ~~seven~~ ten dollars as 13778
additional filing fees in each new civil action or proceeding for 13779
the charitable public purpose of providing financial assistance to 13780
legal aid societies that operate within the state. This division 13781

does not apply to any execution on a judgment, proceeding in aid 13782
of execution, or other post-judgment proceeding arising out of a 13783
civil action. The filing fees required to be collected under this 13784
division shall be in addition to any other court costs imposed in 13785
the action or proceeding and shall be collected at the time of the 13786
filing of the action or proceeding. The court shall not waive the 13787
payment of the additional filing fees in a new civil action or 13788
proceeding unless the court waives the advanced payment of all 13789
filing fees in the action or proceeding. All such moneys collected 13790
during a month shall be transmitted on or before the twentieth day 13791
of the following month by the clerk of the court to the treasurer 13792
of state in a manner prescribed by the treasurer of state or by 13793
the Ohio legal assistance foundation. The moneys then shall be 13794
deposited by the treasurer of state to the credit of the legal aid 13795
fund established under section 120.52 of the Revised Code. 13796

The court may retain up to one per cent of the moneys it 13797
collects under this division to cover administrative costs, 13798
including the hiring of any additional personnel necessary to 13799
implement this division. 13800

(D) The county court shall establish by rule a schedule of 13801
fees for miscellaneous services performed by the county court or 13802
any of its judges in accordance with law. If judges of the court 13803
of common pleas perform similar services, the fees prescribed in 13804
the schedule shall not exceed the fees for those services 13805
prescribed by the court of common pleas. 13806

(E) Under the circumstances described in sections 2969.21 to 13807
2969.27 of the Revised Code, the clerk of the county court shall 13808
charge the fees and perform the other duties specified in those 13809
sections. 13810

Sec. 2113.041. (A) The administrator of the estate recovery 13811
program established pursuant to section 5111.11 of the Revised 13812

Code may present an affidavit to a financial institution 13813
requesting that the financial institution release account proceeds 13814
to recover the cost of services correctly provided to a medicaid 13815
recipient who is subject to the estate recovery program. The 13816
affidavit shall include all of the following information: 13817

(1) The name of the decedent; 13818

(2) The name of any person who gave notice that the decedent 13819
was a medicaid recipient and that person's relationship to the 13820
decedent; 13821

(3) The name of the financial institution; 13822

(4) The account number; 13823

(5) A description of the claim for estate recovery; 13824

(6) The amount of funds to be recovered. 13825

(B) A financial institution may release account proceeds to 13826
the administrator of the estate recovery program if all of the 13827
following apply: 13828

(1) The decedent held an account at the financial institution 13829
that was in the decedent's name only. 13830

(2) No estate has been, and it is reasonable to assume that 13831
no estate will be, opened for the decedent. 13832

(3) The decedent has no outstanding debts known to the 13833
administrator of the estate recovery program. 13834

(4) The financial institution has received no objections or 13835
has determined that no valid objections to release of proceeds 13836
have been received. 13837

(C) If proceeds have been released pursuant to division (B) 13838
of this section and the department of job and family services 13839
receives notice of a valid claim to the proceeds that has a higher 13840
priority under section 2117.25 of the Revised Code than the claim 13841

of the estate recovery program, the department may refund the 13842
proceeds to the financial institution or pay them to the person or 13843
government entity with the claim. 13844

Sec. 2151.282. (A) There is hereby created the Ohio court 13845
appointed special advocate/guardian ad litem (CASA/GAL) study 13846
committee consisting of five members. One member shall be a 13847
representative of the Ohio court appointed special 13848
advocate/guardian ad litem association appointed by the governor 13849
and shall be the chairperson of the committee. One member shall be 13850
a member of the Ohio juvenile judges association, appointed by the 13851
president of the senate. One member shall be a member of the Ohio 13852
state bar association appointed by the speaker of the house of 13853
representatives. One member shall be a representative of the 13854
office of the state public defender appointed by the minority 13855
leader of the senate. One member shall be a representative of the 13856
Ohio county commissioner's association appointed by the minority 13857
leader of the house of representatives. The members of the 13858
committee shall be appointed within sixty days after the effective 13859
date of this section. The committee shall do all of the following: 13860

(1) Compile available public data associated with state and 13861
local costs of advocating on behalf of children who have been 13862
found to be abused, neglected, or dependent children; 13863

(2) Examine the costs in counties that have established and 13864
operated an Ohio CASA/GAL association program, and the costs in 13865
counties that utilize the county public defender, joint county 13866
public defender, or court-appointed counsel, to advocate on behalf 13867
of children who have been found to be abused, neglected, or 13868
dependent children; 13869

(3) Analyze the total cost of advocating on behalf of 13870
children who have been found to be abused, neglected, or dependent 13871
children on a per county basis and a per child served basis; 13872

(4) Analyze the cost benefit of having an Ohio CASA/GAL association versus utilizing the county public defender, joint county public defender, or court-appointed counsel to advocate on behalf of children who have been found to be abused, neglected, or dependent children; 13873
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(5) Analyze the advocacy services provided to abused children, neglected children, or dependent children by Ohio CASA/GAL association programs versus the advocacy services provided to abused, neglected, or dependent children by county public defenders, joint county public defenders, or court-appointed counsel. 13878
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(B) The Ohio CASA/GAL association shall provide staff for the Ohio CASA/GAL study committee and shall pay for any expenses incurred by the study committee. The study committee shall meet within thirty days after the appointment of the members to the study committee. 13884
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(C) The Ohio CASA/GAL study committee shall prepare a report containing all relevant data and information that division (A) of this section requires the study committee to compile, examine, and analyze. The Ohio CASA/GAL study committee shall deliver a final copy of the report to the governor, the speaker of the house of representatives, and the president of the senate on or before July 1, 2007. 13889
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Sec. 2151.352. A child, ~~or~~ the child's parents, or custodian, 13896
or any other person in loco parentis of ~~such~~ the child is entitled 13897
to representation by legal counsel at all stages of the 13898
proceedings under this chapter or Chapter 2152. of the Revised 13899
Code ~~and if~~. If, as an indigent person, ~~any such person~~ a party is 13900
unable to employ counsel, the party is entitled to have counsel 13901
provided for the person pursuant to Chapter 120. of the Revised 13902
Code except in civil matters in which the juvenile court is 13903

exercising jurisdiction pursuant to division (A)(2), (3), (9), 13904
(10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); 13905
(D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a 13906
party appears without counsel, the court shall ascertain whether 13907
the party knows of the party's right to counsel and of the party's 13908
right to be provided with counsel if the party is an indigent 13909
person. The court may continue the case to enable a party to 13910
obtain counsel ~~or~~, to be represented by the county public defender 13911
or the joint county public defender ~~and shall provide, or to be~~ 13912
appointed counsel upon request pursuant to Chapter 120. of the 13913
Revised Code. Counsel must be provided for a child not represented 13914
by the child's parent, guardian, or custodian. If the interests of 13915
two or more such parties conflict, separate counsel shall be 13916
provided for each of them. 13917

Section 2935.14 of the Revised Code applies to any child 13918
taken into custody. The parents, custodian, or guardian of such 13919
child, and any attorney at law representing them or the child, 13920
shall be entitled to visit such child at any reasonable time, be 13921
present at any hearing involving the child, and be given 13922
reasonable notice of such hearing. 13923

Any report or part thereof concerning such child, which is 13924
used in the hearing and is pertinent thereto, shall for good cause 13925
shown be made available to any attorney at law representing such 13926
child and to any attorney at law representing the parents, 13927
custodian, or guardian of such child, upon written request prior 13928
to any hearing involving such child. 13929

Sec. 2151.416. (A) Each agency that is required by section 13930
2151.412 of the Revised Code to prepare a case plan for a child 13931
shall complete a semiannual administrative review of the case plan 13932
no later than six months after the earlier of the date on which 13933
the complaint in the case was filed or the child was first placed 13934

in shelter care. After the first administrative review, the agency shall complete semiannual administrative reviews no later than every six months. If the court issues an order pursuant to section 2151.414 or 2151.415 of the Revised Code, the agency shall complete an administrative review no later than six months after the court's order and continue to complete administrative reviews no later than every six months after the first review, except that the court hearing held pursuant to section 2151.417 of the Revised Code may take the place of any administrative review that would otherwise be held at the time of the court hearing. When conducting a review, the child's health and safety shall be the paramount concern.

(B) Each administrative review required by division (A) of this section shall be conducted by a review panel of at least three persons, including, but not limited to, both of the following:

(1) A caseworker with day-to-day responsibility for, or familiarity with, the management of the child's case plan;

(2) A person who is not responsible for the management of the child's case plan or for the delivery of services to the child or the parents, guardian, or custodian of the child.

(C) Each semiannual administrative review shall include, but not be limited to, a joint meeting by the review panel with the parents, guardian, or custodian of the child, the guardian ad litem of the child, and the child's foster care provider and shall include an opportunity for those persons to submit any written materials to be included in the case record of the child. If a parent, guardian, custodian, guardian ad litem, or foster care provider of the child cannot be located after reasonable efforts to do so or declines to participate in the administrative review after being contacted, the agency does not have to include them in the joint meeting.

(D) The agency shall prepare a written summary of the 13967
semiannual administrative review that shall include, but not be 13968
limited to, all of the following: 13969

(1) A conclusion regarding the safety and appropriateness of 13970
the child's foster care placement; 13971

(2) The extent of the compliance with the case plan of all 13972
parties; 13973

(3) The extent of progress that has been made toward 13974
alleviating the circumstances that required the agency to assume 13975
temporary custody of the child; 13976

(4) An estimated date by which the child may be returned to 13977
and safely maintained in the child's home or placed for adoption 13978
or legal custody; 13979

(5) An updated case plan that includes any changes that the 13980
agency is proposing in the case plan; 13981

(6) The recommendation of the agency as to which agency or 13982
person should be given custodial rights over the child for the 13983
six-month period after the administrative review; 13984

(7) The names of all persons who participated in the 13985
administrative review. 13986

(E) The agency shall file the summary with the court no later 13987
than seven days after the completion of the administrative review. 13988
If the agency proposes a change to the case plan as a result of 13989
the administrative review, the agency shall file the proposed 13990
change with the court at the time it files the summary. The agency 13991
shall give notice of the summary and proposed change in writing 13992
before the end of the next day after filing them to all parties 13993
and the child's guardian ad litem. All parties and the guardian ad 13994
litem shall have seven days after the date the notice is sent to 13995
object to and request a hearing on the proposed change. 13996

(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. 2151.652. A joint board of county commissioners that has
organized a district for the establishment and support of a
school, forestry camp, or other facility or facilities under
section 2151.65 of the Revised Code shall approve all contracts

entered into by or on behalf of the district and shall approve the 14059
district's annual budget. The joint board of county commissioners 14060
has exclusive authority to retain legal counsel for the district. 14061

Sec. 2152.43. (A) A board of county commissioners that 14062
provides a detention facility and the board of trustees of a 14063
district detention facility may apply to the department of youth 14064
services under section 5139.281 of the Revised Code for assistance 14065
in defraying the cost of operating and maintaining the facility. 14066
The application shall be made on forms prescribed and furnished by 14067
the department. 14068

The board of county commissioners of each county that 14069
participates in a district detention facility may apply to the 14070
department of youth services for assistance in defraying the 14071
county's share of the cost of acquisition or construction of the 14072
facility, as provided in section 5139.271 of the Revised Code. 14073
Application shall be made in accordance with rules adopted by the 14074
department. No county shall be reimbursed for expenses incurred in 14075
the acquisition or construction of a district detention facility 14076
that serves a district having a population of less than one 14077
hundred thousand. 14078

(B)(1) The joint boards of county commissioners of district 14079
detention facilities shall defray all necessary expenses of the 14080
facility not paid from funds made available under section 5139.281 14081
of the Revised Code, through annual assessments of taxes, through 14082
gifts, or through other means. 14083

If any county withdraws from a district under division (D) of 14084
section 2152.41 of the Revised Code, it shall continue to have 14085
levied against its tax duplicate any tax levied by the district 14086
during the period in which the county was a member of the district 14087
for current operating expenses, permanent improvements, or the 14088
retirement of bonded indebtedness. The levy shall continue to be a 14089

levy against the tax duplicate of the county until the time that
it expires or is renewed. 14090
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(2) The current expenses of maintaining the facility not paid 14092
from funds made available under section 5139.281 of the Revised 14093
Code or division (C) of this section, and the cost of ordinary 14094
repairs to the facility, shall be paid by each county in 14095
accordance with one of the following methods as approved by the 14096
joint board of county commissioners: 14097

(a) In proportion to the number of children from that county 14098
who are maintained in the facility during the year; 14099

(b) By a levy submitted by the joint board of county 14100
commissioners under division (A) of section 5705.19 of the Revised 14101
Code and approved by the electors of the district; 14102

(c) In proportion to the taxable property of each county, as 14103
shown by its tax duplicate; 14104

(d) In any ~~combination of the methods for payment described~~ 14105
~~in division (B)(2)(a), (b), or (c) of this section~~ other method 14106
agreed upon by unanimous vote of the joint board of county 14107
commissioners. 14108

(C) When any person donates or bequeaths any real or personal 14109
property to a county or district detention facility, the juvenile 14110
court or the trustees of the facility may accept and use the gift, 14111
consistent with the best interest of the institution and the 14112
conditions of the gift. 14113

Sec. 2152.44. (A) As soon as practical after the organization 14114
of the joint board of county commissioners as provided by section 14115
2152.41 of the Revised Code, the joint board shall appoint a board 14116
of not less than five trustees. The board shall hold office until 14117
the first annual meeting after the choice of an established site 14118
and buildings, or after the selection and purchase of a building 14119

site. At that time, the joint board of county commissioners shall 14120
appoint a board of not less than five trustees, one of whom shall 14121
hold office for a term of one year, one for a term of two years, 14122
one for a term of three years, half of the remaining number for a 14123
term of four years, and the remainder for a term of five years. 14124
Annually thereafter, the joint board of county commissioners shall 14125
appoint one or more trustees, each of whom shall hold office for a 14126
term of five years, to succeed the trustee or trustees whose term 14127
of office expires. A trustee may be appointed to successive terms. 14128
Any person appointed as a trustee shall be recommended and 14129
approved by the juvenile court judge or judges of the county of 14130
which the person resides. 14131

At least one trustee shall reside in each county in the 14132
district. In districts composed of two counties, each county shall 14133
be entitled to not less than two trustees. In districts composed 14134
of more than four counties, the number of trustees shall be 14135
sufficiently increased, provided that there shall always be an 14136
uneven number of trustees on the board. The county in which a 14137
district detention facility is located shall have not less than 14138
two trustees, who, in the interim period between the regular 14139
meetings of the trustees, shall act as an executive committee in 14140
the discharge of all business pertaining to the facility. 14141

The joint board of county commissioners may remove any 14142
trustee for good cause. The trustee appointed to fill any vacancy 14143
shall hold the office for the unexpired term of the predecessor 14144
trustee. 14145

(B) The annual meeting of the board of trustees shall be held 14146
on the first Tuesday in May in each year. 14147

A majority of the board constitutes a quorum. Other board 14148
meetings shall be held at least quarterly. The juvenile court 14149
judge of each county of the district, or the judge's designee, 14150

shall attend the meetings. The members of the board shall receive 14151
no compensation for their services, except their actual and 14152
necessary expenses. The treasurer shall pay the member's traveling 14153
expenses when properly certified. 14154

(C) When the board of trustees does not choose an established 14155
institution in one of the counties of the district, it may select 14156
a suitable site for the erection of a district detention facility. 14157
The site must be easily accessible, conducive to health, economy 14158
in purchasing or in building, and the general interest of the 14159
facility and its residents, and be as near as practicable to the 14160
geographical center of the district. 14161

In the interim between the selection and purchase of a site, 14162
and the erection and occupancy of the district detention facility, 14163
the joint board of county commissioners provided under section 14164
~~2151.41~~ 2152.41 of the Revised Code may delegate to the board of 14165
trustees any powers and duties that, in its judgment, will be of 14166
general interest or aid to the institution. The joint board of 14167
county commissioners may appropriate a trustees' fund, to be 14168
expended by the trustees for contracts, purchases, or other 14169
necessary expenses of the facility. The trustees shall make a 14170
complete settlement with the joint board of county commissioners 14171
once each six months, or quarterly if required, and shall make to 14172
the board of county commissioners and to the juvenile court of 14173
each of the counties a full report of the condition of the 14174
facility and residents. 14175

(D) The choice of an established site and buildings, or the 14176
purchase of a site, stock, implements, and general farm equipment, 14177
should there be a farm, the erection of buildings, and the 14178
completion and furnishing of the district detention facility for 14179
occupancy, shall be in the hands of the joint board of county 14180
commissioners organized under section 2152.41 of the Revised Code. 14181
The joint board of county commissioners may delegate all or a 14182

portion of these duties to the board of trustees, under any 14183
restrictions that the joint board of county commissioners imposes. 14184

When an established site and buildings are used for a 14185
district detention facility, the joint board of county 14186
commissioners shall cause the value of that site and those 14187
buildings to be properly appraised. This appraisal value, or in 14188
case of the purchase of a site, the purchase price and the cost of 14189
all improvements thereto, shall be paid by the counties comprising 14190
the district, in proportion to the taxable property of each 14191
county, as shown by its tax duplicate. 14192

(E) Once a district is established, the trustees shall 14193
operate, maintain, and manage the facility as provided in sections 14194
2152.41 to 2152.43 of the Revised Code. 14195

(F) A joint board of county commissioners that has organized 14196
a district for the establishment and support of a detention 14197
facility under section 2152.41 of the Revised Code shall approve 14198
all contracts entered into by or on behalf of the district and 14199
shall approve the district's annual budget. The joint board of 14200
county commissioners has exclusive authority to retain legal 14201
counsel for the district. 14202

Sec. 2152.74. (A) As used in this section, "DNA analysis" and 14203
"DNA specimen" have the same meanings as in section 109.573 of the 14204
Revised Code. 14205

(B)(1) A child who is adjudicated a delinquent child for 14206
committing an act listed in division (D) of this section and who 14207
is committed to the custody of the department of youth services, 14208
placed in a detention facility or district detention facility 14209
pursuant to division (A)(3) of section 2152.19 of the Revised 14210
Code, or placed in a school, camp, institution, or other facility 14211
for delinquent children described in division (A)(2) of section 14212

2152.19 of the Revised Code shall submit to a DNA specimen 14213
collection procedure administered by the director of youth 14214
services if committed to the department or by the chief 14215
administrative officer of the detention facility, district 14216
detention facility, school, camp, institution, or other facility 14217
for delinquent children to which the child was committed or in 14218
which the child was placed. If the court commits the child to the 14219
department of youth services, the director of youth services shall 14220
cause the DNA specimen to be collected from the child during the 14221
intake process at an institution operated by or under the control 14222
of the department. If the court commits the child to or places the 14223
child in a detention facility, district detention facility, 14224
school, camp, institution, or other facility for delinquent 14225
children, the chief administrative officer of the detention 14226
facility, district detention facility, school, camp, institution, 14227
or facility to which the child is committed or in which the child 14228
is placed shall cause the DNA specimen to be collected from the 14229
child during the intake process for the detention facility, 14230
district detention facility, school, camp, institution, or 14231
facility. In accordance with division (C) of this section, the 14232
director or the chief administrative officer shall cause the DNA 14233
specimen to be forwarded to the bureau of criminal identification 14234
and investigation no later than fifteen days after the date of the 14235
collection of the DNA specimen. The DNA specimen shall be 14236
collected from the child in accordance with division (C) of this 14237
section. 14238

(2) If a child is adjudicated a delinquent child for 14239
committing an act listed in division (D) of this section, is 14240
committed to or placed in the department of youth services, a 14241
detention facility or district detention facility, or a school, 14242
camp, institution, or other facility for delinquent children, and 14243
does not submit to a DNA specimen collection procedure pursuant to 14244

division (B)(1) of this section, prior to the child's release from 14245
the custody of the department of youth services, from the custody 14246
of the detention facility or district detention facility, or from 14247
the custody of the school, camp, institution, or facility, the 14248
child shall submit to, and the director of youth services or the 14249
chief administrator of the detention facility, district detention 14250
facility, school, camp, institution, or facility to which the 14251
child is committed or in which the child was placed shall 14252
administer, a DNA specimen collection procedure at the institution 14253
operated by or under the control of the department of youth 14254
services or at the detention facility, district detention 14255
facility, school, camp, institution, or facility to which the 14256
child is committed or in which the child was placed. In accordance 14257
with division (C) of this section, the director or the chief 14258
administrative officer shall cause the DNA specimen to be 14259
forwarded to the bureau of criminal identification and 14260
investigation no later than fifteen days after the date of the 14261
collection of the DNA specimen. The DNA specimen shall be 14262
collected in accordance with division (C) of this section. 14263

(C) If the DNA specimen is collected by withdrawing blood 14264
from the child or a similarly invasive procedure, a physician, 14265
registered nurse, licensed practical nurse, duly licensed clinical 14266
laboratory technician, or other qualified medical practitioner 14267
shall collect in a medically approved manner the DNA specimen 14268
required to be collected pursuant to division (B) of this section. 14269
If the DNA specimen is collected by swabbing for buccal cells or a 14270
similarly noninvasive procedure, this section does not require 14271
that the DNA specimen be collected by a qualified medical 14272
practitioner of that nature. No later than fifteen days after the 14273
date of the collection of the DNA specimen, the director of youth 14274
services or the chief administrative officer of the detention 14275
facility, district detention facility, school, camp, institution, 14276

or other facility for delinquent children to which the child is
committed or in which the child was placed shall cause the DNA
specimen to be forwarded to the bureau of criminal identification
and investigation in accordance with procedures established by the
superintendent of the bureau under division (H) of section 109.573
of the Revised Code. The bureau shall provide the specimen vials,
mailing tubes, labels, postage, and instruction needed for the
collection and forwarding of the DNA specimen to the bureau.

(D) The director of youth services and the chief
administrative officer of a detention facility, district detention
facility, school, camp, institution, or other facility for
delinquent children shall cause a DNA specimen to be collected in
accordance with divisions (B) and (C) of this section from each
child in its custody who is adjudicated a delinquent child for
committing any of the following acts:

(1) A violation of section 2903.01, 2903.02, 2903.11,
2905.01, 2907.02, 2907.03, 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, or 2907.05 of the Revised Code or to
commit a violation of section 2907.12 of the Revised Code as it
existed prior to September 3, 1996;

(4) A violation of any law that arose out of the same facts
and circumstances and same act as did a charge against the child
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02,
2907.03, 2907.05, or 2911.11 of the Revised Code that previously
was dismissed or amended or as did a charge against the child of a
violation of section 2907.12 of the Revised Code as it existed
prior to September 3, 1996, that previously was dismissed or

amended; 14308

(5) A violation of section 2905.02 or 2919.23 of the Revised 14309
Code that would have been a violation of section 2905.04 of the 14310
Revised Code as it existed prior to July 1, 1996, had the 14311
violation been committed prior to that date; 14312

(6) A felony violation of any law that arose out of the same 14313
facts and circumstances and same act as did a charge against the 14314
child of a violation of section 2903.11, 2911.01, 2911.02, or 14315
2911.12 of the Revised Code that previously was dismissed or 14316
amended; 14317

(7) A violation of section 2923.01 of the Revised Code 14318
involving a conspiracy to commit a violation of section 2903.01, 14319
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 14320
Revised Code; 14321

(8) A violation of section 2923.03 of the Revised Code 14322
involving complicity in committing a violation of section 2903.01, 14323
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 14324
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 14325
violation of section 2907.12 of the Revised Code as it existed 14326
prior to September 3, 1996. 14327

(E) The director of youth services and the chief 14328
administrative officer of a detention facility, district detention 14329
facility, school, camp, institution, or other facility for 14330
delinquent children is not required to comply with this section in 14331
relation to the following acts until the superintendent of the 14332
bureau of criminal identification and investigation gives agencies 14333
in the juvenile justice system, as defined in section ~~181.51~~ 14334
5502.61 of the Revised Code, in the state official notification 14335
that the state DNA laboratory is prepared to accept DNA specimens 14336
of that nature: 14337

(1) A violation of section 2903.11, 2911.01, 2911.02, or 14338

2911.12 of the Revised Code;	14339
(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;	14340 14341
(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;	14342 14343 14344 14345 14346
(4) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;	14347 14348 14349 14350
(5) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.	14351 14352 14353 14354 14355 14356
Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.	14357 14358 14359 14360 14361 14362 14363 14364 14365 14366
(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place	14367 14368

the funds from the fees in a separate fund to be disbursed, upon 14369
an order of the court, in an amount not greater than the actual 14370
cost to the court of procuring and maintaining computerization of 14371
the court, computerized legal research services, or both. 14372

(3) If the court determines that the funds in the fund 14373
described in division (A)(2) of this section are more than 14374
sufficient to satisfy the purpose for which the additional fee 14375
described in division (A)(1) of this section was imposed, the 14376
court may declare a surplus in the fund and expend those surplus 14377
funds for other appropriate technological expenses of the court. 14378

(B)(1) The court of common pleas of any county may determine 14379
that, for the efficient operation of the court, additional funds 14380
are required to computerize the office of the clerk of the court 14381
of common pleas and, upon that determination, authorize and direct 14382
the clerk of the court of common pleas to charge an additional 14383
fee, not to exceed ten dollars, on the filing of each cause of 14384
action or appeal, on the filing, docketing, and endorsing of each 14385
certificate of judgment, or on the docketing and indexing of each 14386
aid in execution or petition to vacate, revive, or modify a 14387
judgment under divisions (A), (P), (Q), (T), and (U) of section 14388
2303.20 of the Revised Code. Subject to division (B)(2) of this 14389
section, all moneys collected under division (B)(1) of this 14390
section shall be paid to the county treasurer to be disbursed, 14391
upon an order of the court of common pleas and subject to 14392
appropriation by the board of county commissioners, in an amount 14393
no greater than the actual cost to the court of procuring and 14394
maintaining computer systems for the office of the clerk of the 14395
court of common pleas. 14396

(2) If the court of common pleas of a county makes the 14397
determination described in division (B)(1) of this section, the 14398
board of county commissioners of that county may issue one or more 14399
general obligation bonds for the purpose of procuring and 14400

maintaining the computer systems for the office of the clerk of 14401
the court of common pleas. In addition to the purposes stated in 14402
division (B)(1) of this section for which the moneys collected 14403
under that division may be expended, the moneys additionally may 14404
be expended to pay debt charges on and financing costs related to 14405
any general obligation bonds issued pursuant to division (B)(2) of 14406
this section as they become due. General obligation bonds issued 14407
pursuant to division (B)(2) of this section are Chapter 133. 14408
securities. 14409

(C) The court of common pleas shall collect the sum of 14410
~~fifteen~~ twenty-five dollars as additional filing fees in each new 14411
civil action or proceeding for the charitable public purpose of 14412
providing financial assistance to legal aid societies that operate 14413
within the state. This division does not apply to proceedings 14414
concerning annulments, dissolutions of marriage, divorces, legal 14415
separation, spousal support, marital property or separate property 14416
distribution, support, or other domestic relations matters; to a 14417
juvenile division of a court of common pleas; to a probate 14418
division of a court of common pleas, except that the additional 14419
filing fees shall apply to name change, guardianship, ~~and~~ 14420
adoption, and decedents' estate proceedings; or to an execution on 14421
a judgment, proceeding in aid of execution, or other post-judgment 14422
proceeding arising out of a civil action. The filing fees required 14423
to be collected under this division shall be in addition to any 14424
other filing fees imposed in the action or proceeding and shall be 14425
collected at the time of the filing of the action or proceeding. 14426
The court shall not waive the payment of the additional filing 14427
fees in a new civil action or proceeding unless the court waives 14428
the advanced payment of all filing fees in the action or 14429
proceeding. All such moneys collected during a month shall be 14430
transmitted on or before the twentieth day of the following month 14431
by the clerk of the court to the treasurer of state in a manner 14432

prescribed by the treasurer of state or by the Ohio legal 14433
assistance foundation. The moneys then shall be deposited by the 14434
treasurer of state to the credit of the legal aid fund established 14435
under section 120.52 of the Revised Code. 14436

The court may retain up to one per cent of the moneys it 14437
collects under this division to cover administrative costs, 14438
including the hiring of any additional personnel necessary to 14439
implement this division. 14440

(D) On and after the thirtieth day after December 9, 1994, 14441
the court of common pleas shall collect the sum of thirty-two 14442
dollars as additional filing fees in each new action or proceeding 14443
for annulment, divorce, or dissolution of marriage for the purpose 14444
of funding shelters for victims of domestic violence pursuant to 14445
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 14446
required to be collected under this division shall be in addition 14447
to any other filing fees imposed in the action or proceeding and 14448
shall be collected at the time of the filing of the action or 14449
proceeding. The court shall not waive the payment of the 14450
additional filing fees in a new action or proceeding for 14451
annulment, divorce, or dissolution of marriage unless the court 14452
waives the advanced payment of all filing fees in the action or 14453
proceeding. On or before the twentieth day of each month, all 14454
moneys collected during the immediately preceding month pursuant 14455
to this division shall be deposited by the clerk of the court into 14456
the county treasury in the special fund used for deposit of 14457
additional marriage license fees as described in section 3113.34 14458
of the Revised Code. Upon their deposit into the fund, the moneys 14459
shall be retained in the fund and expended only as described in 14460
section 3113.34 of the Revised Code. 14461

(E)(1) The court of common pleas may determine that, for the 14462
efficient operation of the court, additional funds are necessary 14463
to acquire and pay for special projects of the court, including, 14464

but not limited to, the acquisition of additional facilities or 14465
the rehabilitation of existing facilities, the acquisition of 14466
equipment, the hiring and training of staff, community service 14467
programs, mediation or dispute resolution services, the employment 14468
of magistrates, the training and education of judges, acting 14469
judges, and magistrates, and other related services. Upon that 14470
determination, the court by rule may charge a fee, in addition to 14471
all other court costs, on the filing of each criminal cause, civil 14472
action or proceeding, or judgment by confession. 14473

If the court of common pleas offers a special program or 14474
service in cases of a specific type, the court by rule may assess 14475
an additional charge in a case of that type, over and above court 14476
costs, to cover the special program or service. The court shall 14477
adjust the special assessment periodically, but not retroactively, 14478
so that the amount assessed in those cases does not exceed the 14479
actual cost of providing the service or program. 14480

All moneys collected under division (E) of this section shall 14481
be paid to the county treasurer for deposit into either a general 14482
special projects fund or a fund established for a specific special 14483
project. Moneys from a fund of that nature shall be disbursed upon 14484
an order of the court in an amount no greater than the actual cost 14485
to the court of a project. If a specific fund is terminated 14486
because of the discontinuance of a program or service established 14487
under division (E) of this section, the court may order that 14488
moneys remaining in the fund be transferred to an account 14489
established under this division for a similar purpose. 14490

(2) As used in division (E) of this section: 14491

(a) "Criminal cause" means a charge alleging the violation of 14492
a statute or ordinance, or subsection of a statute or ordinance, 14493
that requires a separate finding of fact or a separate plea before 14494
disposition and of which the defendant may be found guilty, 14495

whether filed as part of a multiple charge on a single summons, 14496
citation, or complaint or as a separate charge on a single 14497
summons, citation, or complaint. "Criminal cause" does not include 14498
separate violations of the same statute or ordinance, or 14499
subsection of the same statute or ordinance, unless each charge is 14500
filed on a separate summons, citation, or complaint. 14501

(b) "Civil action or proceeding" means any civil litigation 14502
that must be determined by judgment entry. 14503

Sec. 2305.234. (A) As used in this section: 14504

(1) "Chiropractic claim," "medical claim," and "optometric 14505
claim" have the same meanings as in section 2305.113 of the 14506
Revised Code. 14507

(2) "Dental claim" has the same meaning as in section 14508
2305.113 of the Revised Code, except that it does not include any 14509
claim arising out of a dental operation or any derivative claim 14510
for relief that arises out of a dental operation. 14511

(3) "Governmental health care program" has the same meaning 14512
as in section 4731.65 of the Revised Code. 14513

(4) "Health care facility or location" means a hospital, 14514
clinic, ambulatory surgical facility, office of a health care 14515
professional or associated group of health care professionals, 14516
training institution for health care professionals, or any other 14517
place where medical, dental, or other health-related diagnosis, 14518
care, or treatment is provided to a person. 14519

(5) "Health care professional" means any of the following who 14520
provide medical, dental, or other health-related diagnosis, care, 14521
or treatment: 14522

(a) Physicians authorized under Chapter 4731. of the Revised 14523
Code to practice medicine and surgery or osteopathic medicine and 14524
surgery; 14525

(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;	14526 14527 14528 14529 14530 14531
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	14532 14533
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	14534 14535
(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;	14536 14537 14538
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	14539 14540
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	14541 14542
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	14543 14544
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	14545 14546
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	14547 14548
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	14549 14550 14551 14552
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	14553 14554

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code. 14555
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(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. 14557
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(7) "Indigent and uninsured person" means a person who meets all of the following requirements: 14564
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(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 14566
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(b) The person is not eligible to receive medical assistance under Chapter 5111., ~~disability medical assistance under Chapter 5115.~~ of the Revised Code, or assistance under any other governmental health care program. 14571
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(c) Either of the following applies: 14575

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan. 14576
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(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency 14580
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or bankruptcy proceedings in any jurisdiction. 14585

(8) "Nonprofit health care referral organization" means an 14586
entity that is not operated for profit and refers patients to, or 14587
arranges for the provision of, health-related diagnosis, care, or 14588
treatment by a health care professional or health care worker. 14589

(9) "Operation" means any procedure that involves cutting or 14590
otherwise infiltrating human tissue by mechanical means, including 14591
surgery, laser surgery, ionizing radiation, therapeutic 14592
ultrasound, or the removal of intraocular foreign bodies. 14593
"Operation" does not include the administration of medication by 14594
injection, unless the injection is administered in conjunction 14595
with a procedure infiltrating human tissue by mechanical means 14596
other than the administration of medicine by injection. 14597
"Operation" does not include routine dental restorative 14598
procedures, the scaling of teeth, or extractions of teeth that are 14599
not impacted. 14600

(10) "Tort action" means a civil action for damages for 14601
injury, death, or loss to person or property other than a civil 14602
action for damages for a breach of contract or another agreement 14603
between persons or government entities. 14604

(11) "Volunteer" means an individual who provides any 14605
medical, dental, or other health-care related diagnosis, care, or 14606
treatment without the expectation of receiving and without receipt 14607
of any compensation or other form of remuneration from an indigent 14608
and uninsured person, another person on behalf of an indigent and 14609
uninsured person, any health care facility or location, any 14610
nonprofit health care referral organization, or any other person 14611
or government entity. 14612

(12) "Community control sanction" has the same meaning as in 14613
section 2929.01 of the Revised Code. 14614

(13) "Deep sedation" means a drug-induced depression of 14615

consciousness during which a patient cannot be easily aroused but 14616
responds purposefully following repeated or painful stimulation, a 14617
patient's ability to independently maintain ventilatory function 14618
may be impaired, a patient may require assistance in maintaining a 14619
patent airway and spontaneous ventilation may be inadequate, and 14620
cardiovascular function is usually maintained. 14621

(14) "General anesthesia" means a drug-induced loss of 14622
consciousness during which a patient is not arousable, even by 14623
painful stimulation, the ability to independently maintain 14624
ventilatory function is often impaired, a patient often requires 14625
assistance in maintaining a patent airway, positive pressure 14626
ventilation may be required because of depressed spontaneous 14627
ventilation or drug-induced depression of neuromuscular function, 14628
and cardiovascular function may be impaired. 14629

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 14630
health care professional who is a volunteer and complies with 14631
division (B)(2) of this section is not liable in damages to any 14632
person or government entity in a tort or other civil action, 14633
including an action on a medical, dental, chiropractic, 14634
optometric, or other health-related claim, for injury, death, or 14635
loss to person or property that allegedly arises from an action or 14636
omission of the volunteer in the provision to an indigent and 14637
uninsured person of medical, dental, or other health-related 14638
diagnosis, care, or treatment, including the provision of samples 14639
of medicine and other medical products, unless the action or 14640
omission constitutes willful or wanton misconduct. 14641

(2) To qualify for the immunity described in division (B)(1) 14642
of this section, a health care professional shall do all of the 14643
following prior to providing diagnosis, care, or treatment: 14644

(a) Determine, in good faith, that the indigent and uninsured 14645
person is mentally capable of giving informed consent to the 14646

provision of the diagnosis, care, or treatment and is not subject 14647
to duress or under undue influence; 14648

(b) Inform the person of the provisions of this section, 14649
including notifying the person that, by giving informed consent to 14650
the provision of the diagnosis, care, or treatment, the person 14651
cannot hold the health care professional liable for damages in a 14652
tort or other civil action, including an action on a medical, 14653
dental, chiropractic, optometric, or other health-related claim, 14654
unless the action or omission of the health care professional 14655
constitutes willful or wanton misconduct; 14656

(c) Obtain the informed consent of the person and a written 14657
waiver, signed by the person or by another individual on behalf of 14658
and in the presence of the person, that states that the person is 14659
mentally competent to give informed consent and, without being 14660
subject to duress or under undue influence, gives informed consent 14661
to the provision of the diagnosis, care, or treatment subject to 14662
the provisions of this section. A written waiver under division 14663
(B)(2)(c) of this section shall state clearly and in conspicuous 14664
type that the person or other individual who signs the waiver is 14665
signing it with full knowledge that, by giving informed consent to 14666
the provision of the diagnosis, care, or treatment, the person 14667
cannot bring a tort or other civil action, including an action on 14668
a medical, dental, chiropractic, optometric, or other 14669
health-related claim, against the health care professional unless 14670
the action or omission of the health care professional constitutes 14671
willful or wanton misconduct. 14672

(3) A physician or podiatrist who is not covered by medical 14673
malpractice insurance, but complies with division (B)(2) of this 14674
section, is not required to comply with division (A) of section 14675
4731.143 of the Revised Code. 14676

(C) Subject to divisions (F) and (G)(3) of this section, 14677

health care workers who are volunteers are not liable in damages 14678
to any person or government entity in a tort or other civil 14679
action, including an action upon a medical, dental, chiropractic, 14680
optometric, or other health-related claim, for injury, death, or 14681
loss to person or property that allegedly arises from an action or 14682
omission of the health care worker in the provision to an indigent 14683
and uninsured person of medical, dental, or other health-related 14684
diagnosis, care, or treatment, unless the action or omission 14685
constitutes willful or wanton misconduct. 14686

(D) Subject to divisions (F) and (G)(3) of this section, a 14687
nonprofit health care referral organization is not liable in 14688
damages to any person or government entity in a tort or other 14689
civil action, including an action on a medical, dental, 14690
chiropractic, optometric, or other health-related claim, for 14691
injury, death, or loss to person or property that allegedly arises 14692
from an action or omission of the nonprofit health care referral 14693
organization in referring indigent and uninsured persons to, or 14694
arranging for the provision of, medical, dental, or other 14695
health-related diagnosis, care, or treatment by a health care 14696
professional described in division (B)(1) of this section or a 14697
health care worker described in division (C) of this section, 14698
unless the action or omission constitutes willful or wanton 14699
misconduct. 14700

(E) Subject to divisions (F) and (G)(3) of this section and 14701
to the extent that the registration requirements of section 14702
3701.071 of the Revised Code apply, a health care facility or 14703
location associated with a health care professional described in 14704
division (B)(1) of this section, a health care worker described in 14705
division (C) of this section, or a nonprofit health care referral 14706
organization described in division (D) of this section is not 14707
liable in damages to any person or government entity in a tort or 14708
other civil action, including an action on a medical, dental, 14709

chiropractic, optometric, or other health-related claim, for 14710
injury, death, or loss to person or property that allegedly arises 14711
from an action or omission of the health care professional or 14712
worker or nonprofit health care referral organization relative to 14713
the medical, dental, or other health-related diagnosis, care, or 14714
treatment provided to an indigent and uninsured person on behalf 14715
of or at the health care facility or location, unless the action 14716
or omission constitutes willful or wanton misconduct. 14717

(F)(1) Except as provided in division (F)(2) of this section, 14718
the immunities provided by divisions (B), (C), (D), and (E) of 14719
this section are not available to a health care professional, 14720
health care worker, nonprofit health care referral organization, 14721
or health care facility or location if, at the time of an alleged 14722
injury, death, or loss to person or property, the health care 14723
professionals or health care workers involved are providing one of 14724
the following: 14725

(a) Any medical, dental, or other health-related diagnosis, 14726
care, or treatment pursuant to a community service work order 14727
entered by a court under division (B) of section 2951.02 of the 14728
Revised Code or imposed by a court as a community control 14729
sanction; 14730

(b) Performance of an operation to which any one of the 14731
following applies: 14732

(i) The operation requires the administration of deep 14733
sedation or general anesthesia. 14734

(ii) The operation is a procedure that is not typically 14735
performed in an office. 14736

(iii) The individual involved is a health care professional, 14737
and the operation is beyond the scope of practice or the 14738
education, training, and competence, as applicable, of the health 14739
care professional. 14740

(c) Delivery of a baby or any other purposeful termination of a human pregnancy. 14741
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(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. 14743
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(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. 14748
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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. 14752
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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. 14759
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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. 14764
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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, 14768
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housing, air pollution, water pollution, sanitation, health, fire, 14772
zoning, or safety. 14773

Sec. 2305.2341. (A) The medical liability insurance 14774
reimbursement program is hereby established. Free 14775
clini2305.2341cs, including the clinics' staff and volunteer 14776
health care professionals and volunteer health care workers, may 14777
participate in the medical liability insurance reimbursement 14778
program established by this section. The coverage provided under 14779
the program shall be limited to claims that arise out of the 14780
diagnosis, treatment, and care of patients of free clinics, as 14781
defined in division (D)(1) of this section. 14782

(B) A free clinic is eligible to receive reimbursement under 14783
the medical liability insurance reimbursement program for the 14784
premiums that the clinic pays for medical liability insurance 14785
coverage for the clinic, its staff, and volunteer health care 14786
professionals and health care workers. Free clinics shall register 14787
with the department of health by the thirty-first day of January 14788
of each year in order to participate in and to obtain 14789
reimbursement under the program. Free clinics shall provide all of 14790
the following to the department of health at the time of 14791
registration: 14792

(1) A statement of the number of volunteer and paid health 14793
care professionals and health care workers providing health care 14794
services at the free clinic at that time; 14795

(2) A statement of the number of health care services 14796
rendered by the free clinic during the previous fiscal year; 14797

(3) A signed form acknowledging that the free clinic agrees 14798
to follow its medical liability insurer's risk management and loss 14799
prevention policies; 14800

(4) A copy of the medical liability insurance policy 14801

purchased by the free clinic, or the policy's declaration page, 14802
and documentation of the premiums paid by the clinic. 14803

(C) The department of health shall reimburse free clinics 14804
participating in the professional liability insurance 14805
reimbursement program for eighty per cent of the premiums that the 14806
free clinic pays for medical liability insurance coverage up to 14807
twenty thousand dollars. Appropriations to the department of 14808
health may be made from the general fund of the state for this 14809
purpose. 14810

(D) As used in this section: 14811

(1) "Free clinic" means a nonprofit organization exempt from 14812
federal income taxation under section 501(c)(3) of the "Internal 14813
Revenue Code of 1986," as amended, or a program component of a 14814
nonprofit organization, whose primary mission is to provide health 14815
care services for free or for a minimal administrative fee to 14816
individuals with limited resources. A free clinic facilitates the 14817
delivery of health care services through the use of volunteer 14818
health care professionals and voluntary care networks. For this 14819
purpose, a free clinic shall comply with all of the following: 14820

(a) If a free clinic does request a minimal administrative 14821
fee, a free clinic shall not deny an individual access to its 14822
health care services based on an individual's ability to pay the 14823
fee. 14824

(b) A free clinic shall not bill a patient for health care 14825
services rendered. 14826

(c) Free clinics shall not perform operations, as defined by 14827
divisions (A)(9) and (F)(1)(b) of section 2305.234 of the Revised 14828
Code. 14829

A clinic is not a free clinic if the clinic bills medicaid, 14830
medicare, or other third-party payers for health care services 14831

rendered at the clinic, and receives twenty-five per cent or more 14832
of the clinic's annual revenue from the third-party payments. 14833

(2) "Health care professional" and "health care worker" have 14834
the same meanings as in section 2305.234 of the Revised Code. 14835

Sec. 2307.65. (A) The attorney general may bring a civil 14836
action in the Franklin county court of common pleas on behalf of 14837
the department of job and family services, and the prosecuting 14838
attorney of the county in which a violation of division (B) of 14839
section 2913.401 of the Revised Code occurs may bring a civil 14840
action in the court of common pleas of that county on behalf of 14841
the county department of job and family services, against a person 14842
who violates division (B) of section 2913.401 of the Revised Code 14843
for the recovery of the amount of benefits paid on behalf of a 14844
person that either department would not have paid but for the 14845
violation minus any amounts paid in restitution under division 14846
(C)(2) of section 2913.401 of the Revised Code and for reasonable 14847
attorney's fees and all other fees and costs of litigation. 14848

(B) In a civil action brought under division (A) of this 14849
section, if the defendant failed to disclose a transfer of 14850
property in violation of division (B)(3) of section 2913.401 of 14851
the Revised Code, the court may also grant any of the following 14852
relief to the extent permitted by 42 U.S.C. 1396p: 14853

(1) Avoidance of the transfer of property that was not 14854
disclosed in violation of division (B)(3) of section 2913.401 of 14855
the Revised Code to the extent of the amount of benefits the 14856
department would not have paid but for the violation; 14857

(2) An order of attachment or garnishment against the 14858
property in accordance with Chapter 2715. or 2716. of the Revised 14859
Code; 14860

(3) An injunction against any further disposition by the 14861

transferor or transferee, or both, of the property the transfer of 14862
which was not disclosed in violation of division (B)(3) of section 14863
2913.401 of the Revised Code or against the disposition of other 14864
property by the transferor or transferee; 14865

(4) Appointment of a receiver to take charge of the property 14866
transferred or of other property of the transferee; 14867

(5) Any other relief that the court considers just and 14868
equitable. 14869

(C) To the extent permitted by 42 U.S.C. 1396p, the 14870
department of job and family services or the county department of 14871
job and family services may enforce a judgment obtained under this 14872
section by levying on property the transfer of which was not 14873
disclosed in violation of division (B)(3) of section 2913.401 of 14874
the Revised Code or on the proceeds of the transfer of that 14875
property in accordance with Chapter 2329. of the Revised Code. 14876

(D) The remedies provided in divisions (B) and (C) of this 14877
section do not apply if the transferee of the property the 14878
transfer of which was not disclosed in violation of division 14879
(B)(3) of section 2913.401 of the Revised Code acquired the 14880
property in good faith and for fair market value. 14881

(E) The remedies provided in this section are not exclusive 14882
and do not preclude the use of any other criminal or civil remedy 14883
for any act that is in violation of section 2913.401 of the 14884
Revised Code. 14885

(F) Amounts of medicaid benefits paid and recovered in an 14886
action brought under this section shall be credited to the general 14887
revenue fund, and any applicable federal share shall be returned 14888
to the appropriate agency or department of the United States. 14889

Sec. 2329.66. (A) Every person who is domiciled in this state 14890
may hold property exempt from execution, garnishment, attachment, 14891

or sale to satisfy a judgment or order, as follows: 14892

(1)(a) In the case of a judgment or order regarding money 14893
owed for health care services rendered or health care supplies 14894
provided to the person or a dependent of the person, one parcel or 14895
item of real or personal property that the person or a dependent 14896
of the person uses as a residence. Division (A)(1)(a) of this 14897
section does not preclude, affect, or invalidate the creation 14898
under this chapter of a judgment lien upon the exempted property 14899
but only delays the enforcement of the lien until the property is 14900
sold or otherwise transferred by the owner or in accordance with 14901
other applicable laws to a person or entity other than the 14902
surviving spouse or surviving minor children of the judgment 14903
debtor. Every person who is domiciled in this state may hold 14904
exempt from a judgment lien created pursuant to division (A)(1)(a) 14905
of this section the person's interest, not to exceed five thousand 14906
dollars, in the exempted property. 14907

(b) In the case of all other judgments and orders, the 14908
person's interest, not to exceed five thousand dollars, in one 14909
parcel or item of real or personal property that the person or a 14910
dependent of the person uses as a residence. 14911

(2) The person's interest, not to exceed one thousand 14912
dollars, in one motor vehicle; 14913

(3) The person's interest, not to exceed two hundred dollars 14914
in any particular item, in wearing apparel, beds, and bedding, and 14915
the person's interest, not to exceed three hundred dollars in each 14916
item, in one cooking unit and one refrigerator or other food 14917
preservation unit; 14918

(4)(a) The person's interest, not to exceed four hundred 14919
dollars, in cash on hand, money due and payable, money to become 14920
due within ninety days, tax refunds, and money on deposit with a 14921
bank, savings and loan association, credit union, public utility, 14922

landlord, or other person. Division (A)(4)(a) of this section 14923
applies only in bankruptcy proceedings. This exemption may include 14924
the portion of personal earnings that is not exempt under division 14925
(A)(13) of this section. 14926

(b) Subject to division (A)(4)(d) of this section, the 14927
person's interest, not to exceed two hundred dollars in any 14928
particular item, in household furnishings, household goods, 14929
appliances, books, animals, crops, musical instruments, firearms, 14930
and hunting and fishing equipment, that are held primarily for the 14931
personal, family, or household use of the person; 14932

(c) Subject to division (A)(4)(d) of this section, the 14933
person's interest in one or more items of jewelry, not to exceed 14934
four hundred dollars in one item of jewelry and not to exceed two 14935
hundred dollars in every other item of jewelry; 14936

(d) Divisions (A)(4)(b) and (c) of this section do not 14937
include items of personal property listed in division (A)(3) of 14938
this section. 14939

If the person does not claim an exemption under division 14940
(A)(1) of this section, the total exemption claimed under division 14941
(A)(4)(b) of this section shall be added to the total exemption 14942
claimed under division (A)(4)(c) of this section, and the total 14943
shall not exceed two thousand dollars. If the person claims an 14944
exemption under division (A)(1) of this section, the total 14945
exemption claimed under division (A)(4)(b) of this section shall 14946
be added to the total exemption claimed under division (A)(4)(c) 14947
of this section, and the total shall not exceed one thousand five 14948
hundred dollars. 14949

(5) The person's interest, not to exceed an aggregate of 14950
seven hundred fifty dollars, in all implements, professional 14951
books, or tools of the person's profession, trade, or business, 14952
including agriculture; 14953

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;	14954 14955 14956
(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;	14957 14958 14959
(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;	14960 14961 14962
(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;	14963 14964 14965 14966
(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.	14967 14968 14969 14970
(7) The person's professionally prescribed or medically necessary health aids;	14971 14972
(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;	14973 14974 14975
(9) The person's interest in the following:	14976
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	14977 14978
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	14979 14980
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	14981 14982

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	14983 14984
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	14985 14986 14987
(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code.	14988 14989
(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;	14990 14991 14992 14993 14994 14995 14996 14997 14998 14999 15000 15001 15002 15003 15004 15005 15006
(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	15007 15008 15009 15010 15011 15012 15013

the support of the person and any of the person's dependents, 15014
except if all the following apply: 15015

(i) The plan or contract was established by or under the 15016
auspices of an insider that employed the person at the time the 15017
person's rights under the plan or contract arose. 15018

(ii) The payment is on account of age or length of service. 15019

(iii) The plan or contract is not qualified under the 15020
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 15021
amended. 15022

(c) Except for any portion of the assets that were deposited 15023
for the purpose of evading the payment of any debt and except as 15024
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 15025
3123.06 of the Revised Code, the person's right in the assets held 15026
in, or to receive any payment under, any individual retirement 15027
account, individual retirement annuity, "Roth IRA," or education 15028
individual retirement account that provides benefits by reason of 15029
illness, disability, death, or age, to the extent that the assets, 15030
payments, or benefits described in division (A)(10)(c) of this 15031
section are attributable to any of the following: 15032

(i) Contributions of the person that were less than or equal 15033
to the applicable limits on deductible contributions to an 15034
individual retirement account or individual retirement annuity in 15035
the year that the contributions were made, whether or not the 15036
person was eligible to deduct the contributions on the person's 15037
federal tax return for the year in which the contributions were 15038
made; 15039

(ii) Contributions of the person that were less than or equal 15040
to the applicable limits on contributions to a Roth IRA or 15041
education individual retirement account in the year that the 15042
contributions were made; 15043

(iii) Contributions of the person that are within the 15044
applicable limits on rollover contributions under subsections 219, 15045
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 15046
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 15047
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 15048

(d) Except for any portion of the assets that were deposited 15049
for the purpose of evading the payment of any debt and except as 15050
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 15051
3123.06 of the Revised Code, the person's right in the assets held 15052
in, or to receive any payment under, any Keogh or "H.R. 10" plan 15053
that provides benefits by reason of illness, disability, death, or 15054
age, to the extent reasonably necessary for the support of the 15055
person and any of the person's dependents. 15056

(11) The person's right to receive spousal support, child 15057
support, an allowance, or other maintenance to the extent 15058
reasonably necessary for the support of the person and any of the 15059
person's dependents; 15060

(12) The person's right to receive, or moneys received during 15061
the preceding twelve calendar months from, any of the following: 15062

(a) An award of reparations under sections 2743.51 to 2743.72 15063
of the Revised Code, to the extent exempted by division (D) of 15064
section 2743.66 of the Revised Code; 15065

(b) A payment on account of the wrongful death of an 15066
individual of whom the person was a dependent on the date of the 15067
individual's death, to the extent reasonably necessary for the 15068
support of the person and any of the person's dependents; 15069

(c) Except in cases in which the person who receives the 15070
payment is an inmate, as defined in section 2969.21 of the Revised 15071
Code, and in which the payment resulted from a civil action or 15072
appeal against a government entity or employee, as defined in 15073
section 2969.21 of the Revised Code, a payment, not to exceed five 15074

thousand dollars, on account of personal bodily injury, not 15075
including pain and suffering or compensation for actual pecuniary 15076
loss, of the person or an individual for whom the person is a 15077
dependent; 15078

(d) A payment in compensation for loss of future earnings of 15079
the person or an individual of whom the person is or was a 15080
dependent, to the extent reasonably necessary for the support of 15081
the debtor and any of the debtor's dependents. 15082

(13) Except as provided in sections 3119.80, 3119.81, 15083
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 15084
earnings of the person owed to the person for services in an 15085
amount equal to the greater of the following amounts: 15086

(a) If paid weekly, thirty times the current federal minimum 15087
hourly wage; if paid biweekly, sixty times the current federal 15088
minimum hourly wage; if paid semimonthly, sixty-five times the 15089
current federal minimum hourly wage; or if paid monthly, one 15090
hundred thirty times the current federal minimum hourly wage that 15091
is in effect at the time the earnings are payable, as prescribed 15092
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 15093
U.S.C. 206(a)(1), as amended; 15094

(b) Seventy-five per cent of the disposable earnings owed to 15095
the person. 15096

(14) The person's right in specific partnership property, as 15097
exempted by division (B)(3) of section 1775.24 of the Revised 15098
Code; 15099

(15) A seal and official register of a notary public, as 15100
exempted by section 147.04 of the Revised Code; 15101

(16) The person's interest in a tuition ~~credit~~ unit or a 15102
payment under section 3334.09 of the Revised Code pursuant to a 15103
tuition ~~credit~~ payment contract, as exempted by section 3334.15 of 15104

the Revised Code;	15105
(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;	15106 15107 15108 15109
(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.	15110 15111 15112
(B) As used in this section:	15113
(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.	15114 15115 15116 15117
(2) "Insider" means:	15118
(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;	15119 15120 15121 15122 15123
(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;	15124 15125 15126 15127 15128 15129
(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;	15130 15131 15132 15133 15134

(d) An entity or person to which or whom any of the following applies:	15135 15136
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.	15137 15138 15139 15140 15141 15142 15143
(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.	15144 15145 15146 15147 15148
(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.	15149 15150 15151 15152
(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.	15153 15154 15155
(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;	15156 15157 15158 15159
(f) A managing agent of the person who claims an exemption.	15160
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	15161 15162
(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.	15163 15164

(C) For purposes of this section, "interest" shall be determined as follows:	15165 15166
(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;	15167 15168 15169
(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.	15170 15171 15172
An interest, as determined under division (C)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.	15173 15174 15175
Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:	15176 15177 15178
(a) The payment of awards of reparations that are granted by the attorney general;	15179 15180
(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;	15181 15182 15183
(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;	15184 15185
(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;	15186 15187
(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;	15188 15189
(f) The costs of investigation and decision-making as certified by the attorney general;	15190 15191
(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92	15192 15193

of the Revised Code;	15194
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	15195 15196 15197
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	15198 15199 15200
(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;	15201 15202 15203 15204 15205 15206
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code;	15207 15208 15209 15210 15211 15212
(l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims. The amount of payments made pursuant to division (A)(1)(l) of this section during any given fiscal year shall not exceed five per cent of the balance of the reparations fund at the close of the immediately previous fiscal year;	15213 15214 15215 15216 15217 15218 15219
<u>(m) The costs of administering the adult parole authority's supervision of sexually violent predators with an active global positioning system device pursuant to section 2971.05 of the Revised Code.</u>	15220 15221 15222 15223

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any

other appropriation for emergencies or contingencies to pay the
award, the attorney general shall request the general assembly to
make an appropriation sufficient to pay the award, and no payment
shall be made until the appropriation has been made. The attorney
general shall make this appropriation request during the current
biennium and during each succeeding biennium until a sufficient
appropriation is made. If, prior to the time that an appropriation
is made by the general assembly pursuant to this division, the
fund has sufficient unencumbered funds to pay the award or part of
the award, the available funds shall be used to pay the award or
part of the award, and the appropriation request shall be amended
to request only sufficient funds to pay that part of the award
that is unpaid.

(C) The attorney general shall not make payment on a decision
or order granting an award until all appeals have been determined
and all rights to appeal exhausted, except as otherwise provided
in this section. If any party to a claim for an award of
reparations appeals from only a portion of an award, and a
remaining portion provides for the payment of money by the state,
that part of the award calling for the payment of money by the
state and not a subject of the appeal shall be processed for
payment as described in this section.

(D) The attorney general shall prepare itemized bills for the
costs of printing and distributing the pamphlet the attorney
general prepares pursuant to section 109.42 of the Revised Code.
The itemized bills shall set forth the name and address of the
persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA
specimen" have the same meanings as in section 109.573 of the
Revised Code.

Sec. 2744.05. Notwithstanding any other provisions of the

Revised Code or rules of a court to the contrary, in an action 15286
against a political subdivision to recover damages for injury, 15287
death, or loss to person or property caused by an act or omission 15288
in connection with a governmental or proprietary function: 15289

(A) Punitive or exemplary damages shall not be awarded. 15290

(B)(1) If a claimant receives or is entitled to receive 15291
benefits for injuries or loss allegedly incurred from a policy or 15292
policies of insurance or any other source, the benefits shall be 15293
disclosed to the court, and the amount of the benefits shall be 15294
deducted from any award against a political subdivision recovered 15295
by that claimant. No insurer or other person is entitled to bring 15296
an action under a subrogation provision in an insurance or other 15297
contract against a political subdivision with respect to those 15298
benefits. 15299

The amount of the benefits shall be deducted from an award 15300
against a political subdivision under division (B)(1) of this 15301
section regardless of whether the claimant may be under an 15302
obligation to pay back the benefits upon recovery, in whole or in 15303
part, for the claim. A claimant whose benefits have been deducted 15304
from an award under division (B)(1) of this section is not 15305
considered fully compensated and shall not be required to 15306
reimburse a subrogated claim for benefits deducted from an award 15307
pursuant to division (B)(1) of this section. 15308

(2) Nothing in division (B)(1) of this section shall be 15309
construed to do either of the following: 15310

(a) Limit the rights of a beneficiary under a life insurance 15311
policy or the rights of sureties under fidelity or surety bonds; 15312

(b) Prohibit the department of job and family services from 15313
recovering from the political subdivision, pursuant to section 15314
5101.58 of the Revised Code, the cost of medical assistance 15315
benefits provided under Chapter 5107.7, or 5111.7, ~~or 5115.~~ of the 15316

Revised Code. 15317

(C)(1) There shall not be any limitation on compensatory 15318
damages that represent the actual loss of the person who is 15319
awarded the damages. However, except in wrongful death actions 15320
brought pursuant to Chapter 2125. of the Revised Code, damages 15321
that arise from the same cause of action, transaction or 15322
occurrence, or series of transactions or occurrences and that do 15323
not represent the actual loss of the person who is awarded the 15324
damages shall not exceed two hundred fifty thousand dollars in 15325
favor of any one person. The limitation on damages that do not 15326
represent the actual loss of the person who is awarded the damages 15327
provided in this division does not apply to court costs that are 15328
awarded to a plaintiff, or to interest on a judgment rendered in 15329
favor of a plaintiff, in an action against a political 15330
subdivision. 15331

(2) As used in this division, "the actual loss of the person 15332
who is awarded the damages" includes all of the following: 15333

(a) All wages, salaries, or other compensation lost by the 15334
person injured as a result of the injury, including wages, 15335
salaries, or other compensation lost as of the date of a judgment 15336
and future expected lost earnings of the person injured; 15337

(b) All expenditures of the person injured or another person 15338
on behalf of the person injured for medical care or treatment, for 15339
rehabilitation services, or for other care, treatment, services, 15340
products, or accommodations that were necessary because of the 15341
injury; 15342

(c) All expenditures to be incurred in the future, as 15343
determined by the court, by the person injured or another person 15344
on behalf of the person injured for medical care or treatment, for 15345
rehabilitation services, or for other care, treatment, services, 15346
products, or accommodations that will be necessary because of the 15347

injury; 15348

(d) All expenditures of a person whose property was injured 15349
or destroyed or of another person on behalf of the person whose 15350
property was injured or destroyed in order to repair or replace 15351
the property that was injured or destroyed; 15352

(e) All expenditures of the person injured or of the person 15353
whose property was injured or destroyed or of another person on 15354
behalf of the person injured or of the person whose property was 15355
injured or destroyed in relation to the actual preparation or 15356
presentation of the claim involved; 15357

(f) Any other expenditures of the person injured or of the 15358
person whose property was injured or destroyed or of another 15359
person on behalf of the person injured or of the person whose 15360
property was injured or destroyed that the court determines 15361
represent an actual loss experienced because of the personal or 15362
property injury or property loss. 15363

"The actual loss of the person who is awarded the damages" 15364
does not include any fees paid or owed to an attorney for any 15365
services rendered in relation to a personal or property injury or 15366
property loss, and does not include any damages awarded for pain 15367
and suffering, for the loss of society, consortium, companionship, 15368
care, assistance, attention, protection, advice, guidance, 15369
counsel, instruction, training, or education of the person 15370
injured, for mental anguish, or for any other intangible loss. 15371

Sec. 2744.08. (A)(1) A political subdivision may use public 15372
funds to secure insurance with respect to its and its employees' 15373
potential liability in damages in civil actions for injury, death, 15374
or loss to persons or property allegedly caused by an act or 15375
omission of the political subdivision or any of its employees in 15376
connection with a governmental or proprietary function. The 15377

insurance may be at the limits, for the circumstances, and subject 15378
to the terms and conditions, that are determined by the political 15379
subdivision in its discretion. 15380

The insurance may be for the period of time that is set forth 15381
in specifications for competitive bids or, when competitive 15382
bidding is not required, for the period of time that is mutually 15383
agreed upon by the political subdivision and insurance company. 15384
The period of time does not have to be, but can be, limited to the 15385
fiscal cycle under which the political subdivision is funded and 15386
operates. 15387

(2)(a) Regardless of whether a political subdivision procures 15388
a policy or policies of liability insurance pursuant to division 15389
(A)(1) of this section or otherwise, the political subdivision may 15390
establish and maintain a self-insurance program relative to its 15391
and its employees' potential liability in damages in civil actions 15392
for injury, death, or loss to persons or property allegedly caused 15393
by an act or omission of the political subdivision or any of its 15394
employees in connection with a governmental or proprietary 15395
function. The political subdivision may reserve such funds as it 15396
deems appropriate in a special fund that may be established 15397
pursuant to an ordinance or resolution of the political 15398
subdivision and not subject to section 5705.12 of the Revised 15399
Code. The political subdivision may allocate the costs of 15400
insurance or a self-insurance program, or both, among the funds or 15401
accounts in the subdivision's treasury on the basis of relative 15402
exposure and loss experience. The political subdivision may 15403
require any deductibles under an insurance or self-insurance 15404
program, or both, to be paid from funds or accounts in the 15405
subdivision's treasury from which a loss was directly 15406
attributable. If it so chooses, the political subdivision may 15407
contract with any person, other political subdivision, or regional 15408
council of governments for purposes of the administration of such 15409

a program. 15410

(b) Political subdivisions that have established 15411
self-insurance programs relative to their and their employees' 15412
potential liability as described in division (A)(2)(a) of this 15413
section may mutually agree that their self-insurance programs will 15414
be jointly administered in a specified manner. 15415

(B) The purchase of liability insurance, or the establishment 15416
and maintenance of a self-insurance program, by a political 15417
subdivision does not constitute a waiver of any immunity or 15418
defense of the political subdivision or its employees, except that 15419
the political subdivision may specifically waive any immunity or 15420
defense to which it or its employees may be entitled if a 15421
provision to that effect is specifically included in the policy of 15422
insurance or in a written plan of operation of the self-insurance 15423
program, or, if any, the legislative enactment of the political 15424
subdivision authorizing the purchase of the insurance or the 15425
establishment and maintenance of the self-insurance program. Such 15426
a specific waiver shall be only to the extent of the insurance or 15427
self-insurance program coverage. 15428

(C) The authorizations for political subdivisions to secure 15429
insurance and to establish and maintain self-insurance programs in 15430
this section are in addition to any other authority to secure 15431
insurance or to establish and maintain self-insurance programs 15432
that is granted pursuant to the Revised Code or the constitution 15433
of this state, and they are not in derogation of any other 15434
authorization. 15435

Sec. 2744.082. (A) If a political subdivision, pursuant to 15436
division (A)(2)(a) of section 2744.08 of the Revised Code, has 15437
allocated costs to, or required the payment of deductibles from, 15438
funds or accounts in the subdivision's treasury, the subdivision's 15439
fiscal officer, pursuant to an ordinance or resolution of the 15440

subdivision's legislative authority, shall transfer amounts equal 15441
to those costs or deductibles from the funds or accounts to the 15442
subdivision's general fund if both of the following occur: 15443

(1) The subdivision requests payment from the employee 15444
responsible for the funds or accounts for those costs or 15445
deductibles; 15446

(2) The employee receiving the request fails to remit payment 15447
within forty-five days after the date of receipt of the request. 15448

(B) Sections 5705.14, 5705.15, and 5705.16 of the Revised 15449
Code do not apply to transfers made pursuant to this section. 15450

Sec. 2901.07. (A) As used in this section: 15451

(1) "DNA analysis" and "DNA specimen" have the same meanings 15452
as in section 109.573 of the Revised Code. 15453

(2) "Jail" and "community-based correctional facility" have 15454
the same meanings as in section 2929.01 of the Revised Code. 15455

(3) "Post-release control" has the same meaning as in section 15456
2967.01 of the Revised Code. 15457

(B)(1) A person who is convicted of or pleads guilty to a 15458
felony offense listed in division (D) of this section and who is 15459
sentenced to a prison term or to a community residential sanction 15460
in a jail or community-based correctional facility pursuant to 15461
section 2929.16 of the Revised Code, and a person who is convicted 15462
of or pleads guilty to a misdemeanor offense listed in division 15463
(D) of this section and who is sentenced to a term of imprisonment 15464
shall submit to a DNA specimen collection procedure administered 15465
by the director of rehabilitation and correction or the chief 15466
administrative officer of the jail or other detention facility in 15467
which the person is serving the term of imprisonment. If the 15468
person serves the prison term in a state correctional institution, 15469
the director of rehabilitation and correction shall cause the DNA 15470

specimen to be collected from the person during the intake process 15471
at the reception facility designated by the director. If the 15472
person serves the community residential sanction or term of 15473
imprisonment in a jail, a community-based correctional facility, 15474
or another county, multicounty, municipal, municipal-county, or 15475
multicounty-municipal detention facility, the chief administrative 15476
officer of the jail, community-based correctional facility, or 15477
detention facility shall cause the DNA specimen to be collected 15478
from the person during the intake process at the jail, 15479
community-based correctional facility, or detention facility. In 15480
accordance with division (C) of this section, the director or the 15481
chief administrative officer shall cause the DNA specimen to be 15482
forwarded to the bureau of criminal identification and 15483
investigation no later than fifteen days after the date of the 15484
collection of the DNA specimen. The DNA specimen shall be 15485
collected in accordance with division (C) of this section. 15486

(2) If a person is convicted of or pleads guilty to an 15487
offense listed in division (D) of this section, is serving a 15488
prison term, community residential sanction, or term of 15489
imprisonment for that offense, and does not provide a DNA specimen 15490
pursuant to division (B)(1) of this section, prior to the person's 15491
release from the prison term, community residential sanction, or 15492
imprisonment, the person shall submit to, and the director of 15493
rehabilitation and correction or the chief administrative officer 15494
of the jail, community-based correctional facility, or detention 15495
facility in which the person is serving the prison term, community 15496
residential sanction, or term of imprisonment shall administer, a 15497
DNA specimen collection procedure at the state correctional 15498
institution, jail, community-based correctional facility, or 15499
detention facility in which the person is serving the prison term, 15500
community residential sanction, or term of imprisonment. In 15501
accordance with division (C) of this section, the director or the 15502

chief administrative officer shall cause the DNA specimen to be 15503
forwarded to the bureau of criminal identification and 15504
investigation no later than fifteen days after the date of the 15505
collection of the DNA specimen. The DNA specimen shall be 15506
collected in accordance with division (C) of this section. 15507

(3) If a person sentenced to a term of imprisonment or 15508
serving a prison term or community residential sanction for 15509
committing an offense listed in division (D) of this section is on 15510
probation, is released on parole, under transitional control, or 15511
on another type of release, or is on post-release control, if the 15512
person is under the supervision of a probation department or the 15513
adult parole authority, if the person is sent to jail or is 15514
returned to a jail, community-based correctional facility, or 15515
state correctional institution for a violation of the terms and 15516
conditions of the probation, parole, transitional control, other 15517
release, or post-release control, if the person was or will be 15518
serving a term of imprisonment, prison term, or community 15519
residential sanction for committing an offense listed in division 15520
(D) of this section, and if the person did not provide a DNA 15521
specimen pursuant to division (B)(1) or (2) of this section, the 15522
person shall submit to, and the director of rehabilitation and 15523
correction or the chief administrative officer of the jail or 15524
community-based correctional facility shall administer, a DNA 15525
specimen collection procedure at the jail, community-based 15526
correctional facility, or state correctional institution in which 15527
the person is serving the term of imprisonment, prison term, or 15528
community residential sanction. In accordance with division (C) of 15529
this section, the director or the chief administrative officer 15530
shall cause the DNA specimen to be forwarded to the bureau of 15531
criminal identification and investigation no later than fifteen 15532
days after the date of the collection of the DNA specimen. The DNA 15533
specimen shall be collected from the person in accordance with 15534

division (C) of this section.

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(C) If the DNA specimen is collected by withdrawing blood
from the person or a similarly invasive procedure, a physician,
registered nurse, licensed practical nurse, duly licensed clinical
laboratory technician, or other qualified medical practitioner
shall collect in a medically approved manner the DNA specimen
required to be collected pursuant to division (B) of this section.
If the DNA specimen is collected by swabbing for buccal cells or a
similarly noninvasive procedure, this section does not require
that the DNA specimen be collected by a qualified medical
practitioner of that nature. No later than fifteen days after the
date of the collection of the DNA specimen, the director of
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.

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(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:

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- (1) A violation of section 2903.01, 2903.02, 2903.11, 15567
2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 15568
2911.11, or 2911.12 of the Revised Code; 15569
- (2) A violation of section 2907.12 of the Revised Code as it 15570
existed prior to September 3, 1996; 15571
- (3) An attempt to commit a violation of section 2903.01, 15572
2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code 15573
or to commit a violation of section 2907.12 of the Revised Code as 15574
it existed prior to September 3, 1996; 15575
- (4) A violation of any law that arose out of the same facts 15576
and circumstances and same act as did a charge against the person 15577
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 15578
2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that 15579
previously was dismissed or amended or as did a charge against the 15580
person of a violation of section 2907.12 of the Revised Code as it 15581
existed prior to September 3, 1996, that previously was dismissed 15582
or amended; 15583
- (5) A violation of section 2905.02 or 2919.23 of the Revised 15584
Code that would have been a violation of section 2905.04 of the 15585
Revised Code as it existed prior to July 1, 1996, had it been 15586
committed prior to that date; 15587
- (6) A sexually oriented offense or a child-victim oriented 15588
offense, both as defined in section 2950.01 of the Revised Code, 15589
if, in relation to that offense, the offender has been adjudicated 15590
a sexual predator or a child-victim predator, both as defined in 15591
section 2950.01 of the Revised Code; 15592
- (7) A felony violation of any law that arose out of the same 15593
facts and circumstances and same act as did a charge against the 15594
person of a violation of section 2903.11, 2911.01, 2911.02, or 15595
2911.12 of the Revised Code that previously was dismissed or 15596
amended; 15597

(8) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(9) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of rehabilitation and correction or a chief administrative officer of a jail, community-based correctional facility, or other detention facility described in division (B) of this section in relation to the following offenses is not required to comply with this section until the superintendent of the bureau of criminal identification and investigation gives agencies in the criminal justice system, as defined in section ~~181.51~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) Complicity in committing a violation of section 2903.01, 15628
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 15629
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 15630
violation of section 2907.12 of the Revised Code as it existed 15631
prior to September 3, 1996. 15632

Sec. 2913.40. (A) As used in this section: 15633

(1) "Statement or representation" means any oral, written, 15634
electronic, electronic impulse, or magnetic communication that is 15635
used to identify an item of goods or a service for which 15636
reimbursement may be made under the medical assistance program or 15637
that states income and expense and is or may be used to determine 15638
a rate of reimbursement under the medical assistance program. 15639

(2) "Medical assistance program" means the program 15640
established by the department of job and family services to 15641
provide medical assistance under section 5111.01 of the Revised 15642
Code and the medicaid program of Title XIX of the "Social Security 15643
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 15644

(3) "Provider" means any person who has signed a provider 15645
agreement with the department of job and family services to 15646
provide goods or services pursuant to the medical assistance 15647
program or any person who has signed an agreement with a party to 15648
such a provider agreement under which the person agrees to provide 15649
goods or services that are reimbursable under the medical 15650
assistance program. 15651

(4) "Provider agreement" means an oral or written agreement 15652
between the department of job and family services and a person in 15653
which the person agrees to provide goods or services under the 15654
medical assistance program. 15655

(5) "Recipient" means any individual who receives goods or 15656
services from a provider under the medical assistance program. 15657

(6) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the director of job and family services to be kept for the medical assistance program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by ~~rules adopted under section 5111.0112 of the Revised Code or by any rules adopted pursuant to that section~~ section 5111.01, 5111.011, or 5111.02 of the Revised Code.

(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by section 5111.0112 of the Revised Code or rules adopted under section 5111.01, 5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted pursuant to that section~~, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(D) No person, having submitted a claim for or provided goods 15689
or services under the medical assistance program, shall do either 15690
of the following for a period of at least six years after a 15691
reimbursement pursuant to that claim, or a reimbursement for those 15692
goods or services, is received under the medical assistance 15693
program: 15694

(1) Knowingly alter, falsify, destroy, conceal, or remove any 15695
records that are necessary to fully disclose the nature of all 15696
goods or services for which the claim was submitted, or for which 15697
reimbursement was received, by the person; 15698

(2) Knowingly alter, falsify, destroy, conceal, or remove any 15699
records that are necessary to disclose fully all income and 15700
expenditures upon which rates of reimbursements were based for the 15701
person. 15702

(E) Whoever violates this section is guilty of medicaid 15703
fraud. Except as otherwise provided in this division, medicaid 15704
fraud is a misdemeanor of the first degree. If the value of 15705
property, services, or funds obtained in violation of this section 15706
is five hundred dollars or more and is less than five thousand 15707
dollars, medicaid fraud is a felony of the fifth degree. If the 15708
value of property, services, or funds obtained in violation of 15709
this section is five thousand dollars or more and is less than one 15710
hundred thousand dollars, medicaid fraud is a felony of the fourth 15711
degree. If the value of the property, services, or funds obtained 15712
in violation of this section is one hundred thousand dollars or 15713
more, medicaid fraud is a felony of the third degree. 15714

(F) Upon application of the governmental agency, office, or 15715
other entity that conducted the investigation and prosecution in a 15716
case under this section, the court shall order any person who is 15717
convicted of a violation of this section for receiving any 15718
reimbursement for furnishing goods or services under the medical 15719

assistance program to which the person is not entitled to pay to 15720
the applicant its cost of investigating and prosecuting the case. 15721
The costs of investigation and prosecution that a defendant is 15722
ordered to pay pursuant to this division shall be in addition to 15723
any other penalties for the receipt of that reimbursement that are 15724
provided in this section, section 5111.03 of the Revised Code, or 15725
any other provision of law. 15726

(G) The provisions of this section are not intended to be 15727
exclusive remedies and do not preclude the use of any other 15728
criminal or civil remedy for any act that is in violation of this 15729
section. 15730

Sec. 2913.401. (A) As used in this section: 15731

(1) "Medicaid benefits" means benefits under the medical 15732
assistance program established under Chapter 5111. of the Revised 15733
Code. 15734

(2) "Property" means any real or personal property or other 15735
asset in which a person has any legal title or interest. 15736

(B) No person shall knowingly do any of the following in an 15737
application for medicaid benefits or in a document that requires a 15738
disclosure of assets for the purpose of determining eligibility to 15739
receive medicaid benefits: 15740

(1) Make or cause to be made a false or misleading statement; 15741

(2) Conceal an interest in property; 15742

(3)(a) Except as provided in division (B)(3)(b) of this 15743
section, fail to disclose a transfer of property that occurred 15744
during the period beginning thirty-six months before submission of 15745
the application or document and ending on the date the application 15746
or document was submitted; 15747

(b) Fail to disclose a transfer of property that occurred 15748

during the period beginning sixty months before submission of the 15749
application or document and ending on the date the application or 15750
document was submitted and that was made to an irrevocable trust a 15751
portion of which is not distributable to the applicant for 15752
medicaid benefits or the recipient of medicaid benefits or to a 15753
revocable trust. 15754

(C)(1) Whoever violates this section is guilty of medicaid 15755
eligibility fraud. Except as otherwise provided in this division, 15756
a violation of this section is a misdemeanor of the first degree. 15757
If the value of the medicaid benefits paid as a result of the 15758
violation is five hundred dollars or more and is less than five 15759
thousand dollars, a violation of this section is a felony of the 15760
fifth degree. If the value of the medicaid benefits paid as a 15761
result of the violation is five thousand dollars or more and is 15762
less than one hundred thousand dollars, a violation of this 15763
section is a felony of the fourth degree. If the value of the 15764
medicaid benefits paid as a result of the violation is one hundred 15765
thousand dollars or more, a violation of this section is a felony 15766
of the third degree. 15767

(2) In addition to imposing a sentence under division (C)(1) 15768
of this section, the court shall order that a person who is guilty 15769
of medicaid eligibility fraud make restitution in the full amount 15770
of any medicaid benefits paid on behalf of an applicant for or 15771
recipient of medicaid benefits for which the applicant or 15772
recipient was not eligible, plus interest at the rate applicable 15773
to judgments on unreimbursed amounts from the date on which the 15774
benefits were paid to the date on which restitution is made. 15775

(3) The remedies and penalties provided in this section are 15776
not exclusive and do not preclude the use of any other criminal or 15777
civil remedy for any act that is in violation of this section. 15778

(D) This section does not apply to a person who fully 15779

disclosed in an application for medicaid benefits or in a document 15780
that requires a disclosure of assets for the purpose of 15781
determining eligibility to receive medicaid benefits all of the 15782
interests in property of the applicant for or recipient of 15783
medicaid benefits, all transfers of property by the applicant for 15784
or recipient of medicaid benefits, and the circumstances of all 15785
those transfers. 15786

(E) Any amounts of medicaid benefits recovered as restitution 15787
under this section and any interest on those amounts shall be 15788
credited to the general revenue fund, and any applicable federal 15789
share shall be returned to the appropriate agency or department of 15790
the United States. 15791

Sec. 2921.13. (A) No person shall knowingly make a false 15792
statement, or knowingly swear or affirm the truth of a false 15793
statement previously made, when any of the following applies: 15794

(1) The statement is made in any official proceeding. 15795

(2) The statement is made with purpose to incriminate 15796
another. 15797

(3) The statement is made with purpose to mislead a public 15798
official in performing the public official's official function. 15799

(4) The statement is made with purpose to secure the payment 15800
of unemployment compensation; Ohio works first; prevention, 15801
retention, and contingency benefits and services; disability 15802
financial assistance; retirement benefits; economic development 15803
assistance, as defined in section 9.66 of the Revised Code; or 15804
other benefits administered by a governmental agency or paid out 15805
of a public treasury. 15806

(5) The statement is made with purpose to secure the issuance 15807
by a governmental agency of a license, permit, authorization, 15808
certificate, registration, release, or provider agreement. 15809

- (6) The statement is sworn or affirmed before a notary public 15810
or another person empowered to administer oaths. 15811
- (7) The statement is in writing on or in connection with a 15812
report or return that is required or authorized by law. 15813
- (8) The statement is in writing and is made with purpose to 15814
induce another to extend credit to or employ the offender, to 15815
confer any degree, diploma, certificate of attainment, award of 15816
excellence, or honor on the offender, or to extend to or bestow 15817
upon the offender any other valuable benefit or distinction, when 15818
the person to whom the statement is directed relies upon it to 15819
that person's detriment. 15820
- (9) The statement is made with purpose to commit or 15821
facilitate the commission of a theft offense. 15822
- (10) The statement is knowingly made to a probate court in 15823
connection with any action, proceeding, or other matter within its 15824
jurisdiction, either orally or in a written document, including, 15825
but not limited to, an application, petition, complaint, or other 15826
pleading, or an inventory, account, or report. 15827
- (11) The statement is made on an account, form, record, 15828
stamp, label, or other writing that is required by law. 15829
- (12) The statement is made in connection with the purchase of 15830
a firearm, as defined in section 2923.11 of the Revised Code, and 15831
in conjunction with the furnishing to the seller of the firearm of 15832
a fictitious or altered driver's or commercial driver's license or 15833
permit, a fictitious or altered identification card, or any other 15834
document that contains false information about the purchaser's 15835
identity. 15836
- (13) The statement is made in a document or instrument of 15837
writing that purports to be a judgment, lien, or claim of 15838
indebtedness and is filed or recorded with the secretary of state, 15839

a county recorder, or the clerk of a court of record. 15840

(14) The statement is made with purpose to obtain an Ohio's 15841
best Rx program enrollment card under section 5110.09 of the 15842
Revised Code or a payment from the department of job and family 15843
services under section 5110.17 of the Revised Code. 15844

~~(14)~~(15) The statement is made in an application filed with a 15845
county sheriff pursuant to section 2923.125 of the Revised Code in 15846
order to obtain or renew a license to carry a concealed handgun or 15847
is made in an affidavit submitted to a county sheriff to obtain a 15848
temporary emergency license to carry a concealed handgun under 15849
section 2923.1213 of the Revised Code. 15850

(16) The statement is required under section 5743.72 of the 15851
Revised Code in connection with the person's purchase of 15852
cigarettes or tobacco products in a delivery sale. 15853

(B) No person, in connection with the purchase of a firearm, 15854
as defined in section 2923.11 of the Revised Code, shall knowingly 15855
furnish to the seller of the firearm a fictitious or altered 15856
driver's or commercial driver's license or permit, a fictitious or 15857
altered identification card, or any other document that contains 15858
false information about the purchaser's identity. 15859

(C) No person, in an attempt to obtain a license to carry a 15860
concealed handgun under section 2923.125 of the Revised Code, 15861
shall knowingly present to a sheriff a fictitious or altered 15862
document that purports to be certification of the person's 15863
competence in handling a handgun as described in division (B)(3) 15864
of section 2923.125 of the Revised Code. 15865

(D) It is no defense to a charge under division (A)(6) of 15866
this section that the oath or affirmation was administered or 15867
taken in an irregular manner. 15868

(E) If contradictory statements relating to the same fact are 15869

made by the offender within the period of the statute of 15870
limitations for falsification, it is not necessary for the 15871
prosecution to prove which statement was false but only that one 15872
or the other was false. 15873

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 15874
(6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section 15875
is guilty of falsification, a misdemeanor of the first degree. 15876

(2) Whoever violates division (A)(9) of this section is 15877
guilty of falsification in a theft offense. Except as otherwise 15878
provided in this division, falsification in a theft offense is a 15879
misdemeanor of the first degree. If the value of the property or 15880
services stolen is five hundred dollars or more and is less than 15881
five thousand dollars, falsification in a theft offense is a 15882
felony of the fifth degree. If the value of the property or 15883
services stolen is five thousand dollars or more and is less than 15884
one hundred thousand dollars, falsification in a theft offense is 15885
a felony of the fourth degree. If the value of the property or 15886
services stolen is one hundred thousand dollars or more, 15887
falsification in a theft offense is a felony of the third degree. 15888

(3) Whoever violates division (A)(12) or (B) of this section 15889
is guilty of falsification to purchase a firearm, a felony of the 15890
fifth degree. 15891

(4) Whoever violates division (A)~~(14)~~(15) or (C) of this 15892
section is guilty of falsification to obtain a concealed handgun 15893
license, a felony of the fourth degree. 15894

(G) A person who violates this section is liable in a civil 15895
action to any person harmed by the violation for injury, death, or 15896
loss to person or property incurred as a result of the commission 15897
of the offense and for reasonable attorney's fees, court costs, 15898
and other expenses incurred as a result of prosecuting the civil 15899
action commenced under this division. A civil action under this 15900

division is not the exclusive remedy of a person who incurs 15901
injury, death, or loss to person or property as a result of a 15902
violation of this section. 15903

Sec. 2923.25. Each federally licensed firearms dealer who 15904
sells any firearm, at the time of the sale of the firearm, shall 15905
offer for sale to the purchaser of the firearm a trigger lock, gun 15906
lock, or gun locking device that is appropriate for that firearm. 15907
Each federally licensed firearms dealer shall post in a 15908
conspicuous location in the dealer's place of business the poster 15909
furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the 15910
Revised Code and shall make available to all purchasers of 15911
firearms from the dealer the brochure furnished to the dealer 15912
pursuant to that section. 15913

As used in this section, "federally licensed firearms dealer" 15914
has the same meaning as in section ~~181.251~~ 5502.63 of the Revised 15915
Code. 15916

Sec. 2927.023. (A) As used in this section "authorized 15917
recipient of tobacco products" means a person who is: 15918

(1) Licensed as a cigarette wholesale dealer under section 15919
5743.15 of the Revised Code; 15920

(2) Licensed as a distributor of tobacco products under 15921
section 5743.61 of the Revised Code; 15922

(3) An export warehouse proprietor as defined in section 5702 15923
of the Internal Revenue Code; 15924

(4) An operator of a customs bonded warehouse under 19 U.S.C. 15925
1311 or 19 U.S.C. 1555; 15926

(5) An officer, employee, or agent of the federal government 15927
or of this state acting in the person's official capacity; 15928

(6) A department, agency, instrumentality, or political 15929

subdivision of the federal government or of this state; 15930

(7) A person having a consent for consumer shipment issued by 15931
the tax commissioner under section 5743.71 of the Revised Code. 15932

The purpose of this section is to prevent the sale of 15933
cigarettes and other tobacco products to minors and to ensure 15934
compliance with the Master Settlement Agreement, as defined in 15935
section 1346.01 of the Revised Code. 15936

(B)(1) No person shall cause to be shipped any cigarettes or 15937
other tobacco products to any person in this state other than an 15938
authorized recipient of tobacco products. 15939

(2) No common carrier, contract carrier, or other person 15940
shall knowingly transport cigarettes or other tobacco products to 15941
any person in this state that the carrier or other person 15942
reasonably believes is not an authorized recipient of tobacco 15943
products. If cigarettes or other tobacco products are transported 15944
to a home or residence, it shall be presumed that the common 15945
carrier, contract carrier, or other person knew that the person to 15946
whom the cigarettes or tobacco products were delivered was not an 15947
authorized recipient of tobacco products. 15948

(C) No person engaged in the business of selling cigarettes 15949
or tobacco products who ships or causes to be shipped cigarettes 15950
or tobacco products to any person in this state in any container 15951
or wrapping other than the original container or wrapping of the 15952
cigarettes or tobacco products shall fail to plainly and visibly 15953
mark the exterior of the container or wrapping in which the 15954
cigarettes or tobacco products are shipped with the words 15955
"cigarettes or other tobacco products." 15956

(D) A court shall impose a fine of up to one thousand dollars 15957
for each violation of division (B)(1), (B)(2), or (C) of this 15958
section. 15959

Sec. 2929.13. (A) Except as provided in division (E), (F), or 15960
(G) of this section and unless a specific sanction is required to 15961
be imposed or is precluded from being imposed pursuant to law, a 15962
court that imposes a sentence upon an offender for a felony may 15963
impose any sanction or combination of sanctions on the offender 15964
that are provided in sections 2929.14 to 2929.18 of the Revised 15965
Code. The sentence shall not impose an unnecessary burden on state 15966
or local government resources. 15967

If the offender is eligible to be sentenced to community 15968
control sanctions, the court shall consider the appropriateness of 15969
imposing a financial sanction pursuant to section 2929.18 of the 15970
Revised Code or a sanction of community service pursuant to 15971
section 2929.17 of the Revised Code as the sole sanction for the 15972
offense. Except as otherwise provided in this division, if the 15973
court is required to impose a mandatory prison term for the 15974
offense for which sentence is being imposed, the court also may 15975
impose a financial sanction pursuant to section 2929.18 of the 15976
Revised Code but may not impose any additional sanction or 15977
combination of sanctions under section 2929.16 or 2929.17 of the 15978
Revised Code. 15979

If the offender is being sentenced for a fourth degree felony 15980
OVI offense or for a third degree felony OVI offense, in addition 15981
to the mandatory term of local incarceration or the mandatory 15982
prison term required for the offense by division (G)(1) or (2) of 15983
this section, the court shall impose upon the offender a mandatory 15984
fine in accordance with division (B)(3) of section 2929.18 of the 15985
Revised Code and may impose whichever of the following is 15986
applicable: 15987

(1) For a fourth degree felony OVI offense for which sentence 15988
is imposed under division (G)(1) of this section, an additional 15989
community control sanction or combination of community control 15990

sanctions under section 2929.16 or 2929.17 of the Revised Code. If 15991
the court imposes upon the offender a community control sanction 15992
and the offender violates any condition of the community control 15993
sanction, the court may take any action prescribed in division (B) 15994
of section 2929.15 of the Revised Code relative to the offender, 15995
including imposing a prison term on the offender pursuant to that 15996
division. 15997

(2) For a third or fourth degree felony OVI offense for which 15998
sentence is imposed under division (G)(2) of this section, an 15999
additional prison term as described in division (D)(4) of section 16000
2929.14 of the Revised Code or a community control sanction as 16001
described in division (G)(2) of this section. 16002

(B)(1) Except as provided in division (B)(2), (E), (F), or 16003
(G) of this section, in sentencing an offender for a felony of the 16004
fourth or fifth degree, the sentencing court shall determine 16005
whether any of the following apply: 16006

(a) In committing the offense, the offender caused physical 16007
harm to a person. 16008

(b) In committing the offense, the offender attempted to 16009
cause or made an actual threat of physical harm to a person with a 16010
deadly weapon. 16011

(c) In committing the offense, the offender attempted to 16012
cause or made an actual threat of physical harm to a person, and 16013
the offender previously was convicted of an offense that caused 16014
physical harm to a person. 16015

(d) The offender held a public office or position of trust 16016
and the offense related to that office or position; the offender's 16017
position obliged the offender to prevent the offense or to bring 16018
those committing it to justice; or the offender's professional 16019
reputation or position facilitated the offense or was likely to 16020
influence the future conduct of others. 16021

(e) The offender committed the offense for hire or as part of an organized criminal activity. 16022
16023

(f) The offense is a sex offense that is a fourth or fifth degree felony violation of section 2907.03, 2907.04, 2907.05, 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the Revised Code. 16024
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(g) The offender at the time of the offense was serving, or the offender previously had served, a prison term. 16028
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(h) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance. 16030
16031
16032

(i) The offender committed the offense while in possession of a firearm. 16033
16034

(2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a prison term is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code and finds that the offender is not amenable to an available community control sanction, the court shall impose a prison term upon the offender. 16035
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(b) Except as provided in division (E), (F), or (G) of this section, if the court does not make a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a community control sanction or combination of community control sanctions is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code, the court shall impose a community control sanction or combination of community control sanctions upon the offender. 16043
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(C) Except as provided in division (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree and 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, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing 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.

(2) If an offender who was convicted of or pleaded guilty to
a felony violates the conditions of a community control sanction
imposed for the offense solely by reason of producing positive
results on a drug test, the court, as punishment for the violation
of the sanction, shall not order that the offender be imprisoned
unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the
felony to participate in a drug treatment program, in a drug
education program, or in narcotics anonymous or a similar program,
and the offender continued to use illegal drugs after a reasonable
period of participation in the program.

(b) The imprisonment of the offender for the violation is
consistent with the purposes and principles of sentencing set
forth in section 2929.11 of the Revised Code.

(F) Notwithstanding divisions (A) to (E) of this section, the

court shall impose a prison term or terms under sections 2929.02
to 2929.06, section 2929.14, or section 2971.03 of the Revised
Code, and except as specifically provided in section 2929.20,
2967.05, or 2967.191 of the Revised Code or when parole is
authorized for the offense under section 2967.13 of the Revised
Code, the terms shall not ~~reduce the terms~~ be reduced pursuant to
section 2929.20, section 2967.193, or any other provision of
Chapter 2967. or Chapter 5120. of the Revised Code for any of the
following offenses:

(1) Aggravated murder when death is not imposed or murder; 16125

(2) Any rape, regardless of whether force was involved and
regardless of the age of the victim, or an attempt to commit rape
if, had the offender completed the rape that was attempted, the
offender would have been subject to a sentence of life
imprisonment or life imprisonment without parole for the rape; 16130

(3) Gross sexual imposition or sexual battery, if the victim
is under thirteen years of age, if the offender previously was
convicted of or pleaded guilty to rape, the former offense of
felonious sexual penetration, gross sexual imposition, or sexual
battery, and if the victim of the previous offense was under
thirteen years of age; 16136

(4) A felony violation of section 2903.04, 2903.06, 2903.08,
2903.11, 2903.12, or 2903.13 of the Revised Code if the section
requires the imposition of a prison term; 16139

(5) A first, second, or third degree felony drug offense for
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06,
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or
4729.99 of the Revised Code, whichever is applicable regarding the
violation, requires the imposition of a mandatory prison term; 16144

(6) Any offense that is a first or second degree felony and
that is not set forth in division (F)(1), (2), (3), or (4) of this 16146

section, if the offender previously was convicted of or pleaded
guilty to aggravated murder, murder, any first or second degree
felony, or an offense under an existing or former law of this
state, another state, or the United States that is or was
substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and that is
listed in division (DD)(1) of section 2929.01 of the Revised Code
if the offender previously was convicted of or pleaded guilty to
any offense that is listed in division (DD)(2)(a)(i) or (ii) of
section 2929.01 of the Revised Code;

(8) Any offense, other than a violation of section 2923.12 of
the Revised Code, that is a felony, if the offender had a firearm
on or about the offender's person or under the offender's control
while committing the felony, with respect to a portion of the
sentence imposed pursuant to division (D)(1)(a) of section 2929.14
of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender
wore or carried body armor while committing the felony offense of
violence, with respect to the portion of the sentence imposed
pursuant to division (D)(1)(d) of section 2929.14 of the Revised
Code for wearing or carrying the body armor;

(10) Corrupt activity in violation of section 2923.32 of the
Revised Code when the most serious offense in the pattern of
corrupt activity that is the basis of the offense is a felony of
the first degree;

(11) Any violent sex offense or designated homicide, assault,
or kidnapping offense if, in relation to that offense, the
offender is adjudicated a sexually violent predator;

(12) A violation of division (A)(1) or (2) of section 2921.36
of the Revised Code, or a violation of division (C) of that
section involving an item listed in division (A)(1) or (2) of that

section, if the offender is an officer or employee of the 16178
department of rehabilitation and correction; 16179

(13) A violation of division (A)(1) or (2) of section 2903.06 16180
of the Revised Code if the victim of the offense is a peace 16181
officer, as defined in section 2935.01 of the Revised Code, with 16182
respect to the portion of the sentence imposed pursuant to 16183
division (D)(5) of section 2929.14 of the Revised Code; 16184

(14) A violation of division (A)(1) or (2) of section 2903.06 16185
of the Revised Code if the offender has been convicted of or 16186
pleaded guilty to three or more violations of division (A) or (B) 16187
of section 4511.19 of the Revised Code or an equivalent offense, 16188
as defined in section 2941.1415 of the Revised Code, or three or 16189
more violations of any combination of those divisions and 16190
offenses, with respect to the portion of the sentence imposed 16191
pursuant to division (D)(6) of section 2929.14 of the Revised 16192
Code. 16193

(G) Notwithstanding divisions (A) to (E) of this section, if 16194
an offender is being sentenced for a fourth degree felony OVI 16195
offense or for a third degree felony OVI offense, the court shall 16196
impose upon the offender a mandatory term of local incarceration 16197
or a mandatory prison term in accordance with the following: 16198

(1) If the offender is being sentenced for a fourth degree 16199
felony OVI offense and if the offender has not been convicted of 16200
and has not pleaded guilty to a specification of the type 16201
described in section 2941.1413 of the Revised Code, the court may 16202
impose upon the offender a mandatory term of local incarceration 16203
of sixty days or one hundred twenty days as specified in division 16204
(G)(1)(d) of section 4511.19 of the Revised Code. ~~The court~~ 16205
Subject to section 2967.05 of the Revised Code, the term shall not 16206
~~reduce the term~~ be reduced pursuant to section 2929.20, 2967.193, 16207
or any other provision of the Revised Code. The court that imposes 16208

a mandatory term of local incarceration under this division shall 16209
specify whether the term is to be served in a jail, a 16210
community-based correctional facility, a halfway house, or an 16211
alternative residential facility, and the offender shall serve the 16212
term in the type of facility specified by the court. A mandatory 16213
term of local incarceration imposed under division (G)(1) of this 16214
section is not subject to extension under section 2967.11 of the 16215
Revised Code, to a period of post-release control under section 16216
2967.28 of the Revised Code, or to any other Revised Code 16217
provision that pertains to a prison term except as provided in 16218
division (A)(1) of this section. 16219

(2) If the offender is being sentenced for a third degree 16220
felony OVI offense, or if the offender is being sentenced for a 16221
fourth degree felony OVI offense and the court does not impose a 16222
mandatory term of local incarceration under division (G)(1) of 16223
this section, the court shall impose upon the offender a mandatory 16224
prison term of one, two, three, four, or five years if the 16225
offender also is convicted of or also pleads guilty to a 16226
specification of the type described in section 2941.1413 of the 16227
Revised Code or shall impose upon the offender a mandatory prison 16228
term of sixty days or one hundred twenty days as specified in 16229
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 16230
if the offender has not been convicted of and has not pleaded 16231
guilty to a specification of that type. ~~The court~~ Subject to 16232
section 2967.05 of the Revised Code, the term shall not reduce the 16233
~~term~~ be reduced pursuant to section 2929.20, 2967.193, or any 16234
other provision of the Revised Code. The offender shall serve the 16235
one-, two-, three-, four-, or five-year mandatory prison term 16236
consecutively to and prior to the prison term imposed for the 16237
underlying offense and consecutively to any other mandatory prison 16238
term imposed in relation to the offense. In no case shall an 16239
offender who once has been sentenced to a mandatory term of local 16240
incarceration pursuant to division (G)(1) of this section for a 16241

fourth degree felony OVI offense be sentenced to another mandatory 16242
term of local incarceration under that division for any violation 16243
of division (A) of section 4511.19 of the Revised Code. In 16244
addition to the mandatory prison term described in division (G)(2) 16245
of this section, the court may sentence the offender to a 16246
community control sanction under section 2929.16 or 2929.17 of the 16247
Revised Code, but the offender shall serve the prison term prior 16248
to serving the community control sanction. The department of 16249
rehabilitation and correction may place an offender sentenced to a 16250
mandatory prison term under this division in an intensive program 16251
prison established pursuant to section 5120.033 of the Revised 16252
Code if the department gave the sentencing judge prior notice of 16253
its intent to place the offender in an intensive program prison 16254
established under that section and if the judge did not notify the 16255
department that the judge disapproved the placement. Upon the 16256
establishment of the initial intensive program prison pursuant to 16257
section 5120.033 of the Revised Code that is privately operated 16258
and managed by a contractor pursuant to a contract entered into 16259
under section 9.06 of the Revised Code, both of the following 16260
apply: 16261

(a) The department of rehabilitation and correction shall 16262
make a reasonable effort to ensure that a sufficient number of 16263
offenders sentenced to a mandatory prison term under this division 16264
are placed in the privately operated and managed prison so that 16265
the privately operated and managed prison has full occupancy. 16266

(b) Unless the privately operated and managed prison has full 16267
occupancy, the department of rehabilitation and correction shall 16268
not place any offender sentenced to a mandatory prison term under 16269
this division in any intensive program prison established pursuant 16270
to section 5120.033 of the Revised Code other than the privately 16271
operated and managed prison. 16272

(H) If an offender is being sentenced for a sexually oriented 16273

offense committed on or after January 1, 1997, the judge shall 16274
require the offender to submit to a DNA specimen collection 16275
procedure pursuant to section 2901.07 of the Revised Code if 16276
either of the following applies: 16277

(1) The offense was a violent sex offense or a designated 16278
homicide, assault, or kidnapping offense and, in relation to that 16279
offense, the offender was adjudicated a sexually violent predator. 16280

(2) The judge imposing sentence for the sexually oriented 16281
offense determines pursuant to division (B) of section 2950.09 of 16282
the Revised Code that the offender is a sexual predator. 16283

(I) If an offender is being sentenced for a sexually oriented 16284
offense that is not a registration-exempt sexually oriented 16285
offense or for a child-victim oriented offense committed on or 16286
after January 1, 1997, the judge shall include in the sentence a 16287
summary of the offender's duties imposed under sections 2950.04, 16288
2950.041, 2950.05, and 2950.06 of the Revised Code and the 16289
duration of the duties. The judge shall inform the offender, at 16290
the time of sentencing, of those duties and of their duration and, 16291
if required under division (A)(2) of section 2950.03 of the 16292
Revised Code, shall perform the duties specified in that section. 16293

(J)(1) Except as provided in division (J)(2) of this section, 16294
when considering sentencing factors under this section in relation 16295
to an offender who is convicted of or pleads guilty to an attempt 16296
to commit an offense in violation of section 2923.02 of the 16297
Revised Code, the sentencing court shall consider the factors 16298
applicable to the felony category of the violation of section 16299
2923.02 of the Revised Code instead of the factors applicable to 16300
the felony category of the offense attempted. 16301

(2) When considering sentencing factors under this section in 16302
relation to an offender who is convicted of or pleads guilty to an 16303
attempt to commit a drug abuse offense for which the penalty is 16304

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 court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(B) Except as provided in division (C), (D)(1), (D)(2),

(D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 16335
of the Revised Code, or in Chapter 2925. of the Revised Code, if 16336
the court imposing a sentence upon an offender for a felony elects 16337
or is required to impose a prison term on the offender, the court 16338
shall impose the shortest prison term authorized for the offense 16339
pursuant to division (A) of this section, unless one or more of 16340
the following applies: 16341

(1) The offender was serving a prison term at the time of the 16342
offense, or the offender previously had served a prison term. 16343

(2) The court finds on the record that the shortest prison 16344
term will demean the seriousness of the offender's conduct or will 16345
not adequately protect the public from future crime by the 16346
offender or others. 16347

(C) Except as provided in division (G) of this section or in 16348
Chapter 2925. of the Revised Code, the court imposing a sentence 16349
upon an offender for a felony may impose the longest prison term 16350
authorized for the offense pursuant to division (A) of this 16351
section only upon offenders who committed the worst forms of the 16352
offense, upon offenders who pose the greatest likelihood of 16353
committing future crimes, upon certain major drug offenders under 16354
division (D)(3) of this section, and upon certain repeat violent 16355
offenders in accordance with division (D)(2) of this section. 16356

(D)(1)(a) Except as provided in division (D)(1)(e) of this 16357
section, if an offender who is convicted of or pleads guilty to a 16358
felony also is convicted of or pleads guilty to a specification of 16359
the type described in section 2941.141, 2941.144, or 2941.145 of 16360
the Revised Code, the court shall impose on the offender one of 16361
the following prison terms: 16362

(i) A prison term of six years if the specification is of the 16363
type described in section 2941.144 of the Revised Code that 16364
charges the offender with having a firearm that is an automatic 16365

firearm or that was equipped with a firearm muffler or silencer on 16366
or about the offender's person or under the offender's control 16367
while committing the felony; 16368

(ii) A prison term of three years if the specification is of 16369
the type described in section 2941.145 of the Revised Code that 16370
charges the offender with having a firearm on or about the 16371
offender's person or under the offender's control while committing 16372
the offense and displaying the firearm, brandishing the firearm, 16373
indicating that the offender possessed the firearm, or using it to 16374
facilitate the offense; 16375

(iii) A prison term of one year if the specification is of 16376
the type described in section 2941.141 of the Revised Code that 16377
charges the offender with having a firearm on or about the 16378
offender's person or under the offender's control while committing 16379
the felony. 16380

(b) If a court imposes a prison term on an offender under 16381
division (D)(1)(a) of this section, subject to section 2967.05 of 16382
the Revised Code, the prison term shall not be reduced pursuant to 16383
section 2929.20, section 2967.193, or any other provision of 16384
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 16385
not impose more than one prison term on an offender under division 16386
(D)(1)(a) of this section for felonies committed as part of the 16387
same act or transaction. 16388

(c) Except as provided in division (D)(1)(e) of this section, 16389
if an offender who is convicted of or pleads guilty to a violation 16390
of section 2923.161 of the Revised Code or to a felony that 16391
includes, as an essential element, purposely or knowingly causing 16392
or attempting to cause the death of or physical harm to another, 16393
also is convicted of or pleads guilty to a specification of the 16394
type described in section 2941.146 of the Revised Code that 16395
charges the offender with committing the offense by discharging a 16396

firearm from a motor vehicle other than a manufactured home, the
court, after imposing a prison term on the offender for the
violation of section 2923.161 of the Revised Code or for the other
felony offense under division (A), (D)(2), or (D)(3) of this
section, shall impose an additional prison term of five years upon
the offender that, subject to section 2967.05 of the Revised Code,
shall not be reduced pursuant to section 2929.20, section
2967.193, or any other provision of Chapter 2967. or Chapter 5120.
of the Revised Code. A court shall not impose more than one
additional prison term on an offender under division (D)(1)(c) of
this section for felonies committed as part of the same act or
transaction. If a court imposes an additional prison term on an
offender under division (D)(1)(c) of this section relative to an
offense, the court also shall impose a prison term under division
(D)(1)(a) of this section relative to the same offense, provided
the criteria specified in that division for imposing an additional
prison term are satisfied relative to the offender and the
offense.

(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 2967.05 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 16429
division (D)(1)(d) of this section. 16430

(e) The court shall not impose any of the prison terms 16431
described in division (D)(1)(a) of this section or any of the 16432
additional prison terms described in division (D)(1)(c) of this 16433
section upon an offender for a violation of section 2923.12 or 16434
2923.123 of the Revised Code. The court shall not impose any of 16435
the prison terms described in division (D)(1)(a) of this section 16436
or any of the additional prison terms described in division 16437
(D)(1)(c) of this section upon an offender for a violation of 16438
section 2923.13 of the Revised Code unless all of the following 16439
apply: 16440

(i) The offender previously has been convicted of aggravated 16441
murder, murder, or any felony of the first or second degree. 16442

(ii) Less than five years have passed since the offender was 16443
released from prison or post-release control, whichever is later, 16444
for the prior offense. 16445

(f) If an offender is convicted of or pleads guilty to a 16446
felony that includes, as an essential element, causing or 16447
attempting to cause the death of or physical harm to another and 16448
also is convicted of or pleads guilty to a specification of the 16449
type described in section 2941.1412 of the Revised Code that 16450
charges the offender with committing the offense by discharging a 16451
firearm at a peace officer as defined in section 2935.01 of the 16452
Revised Code or a corrections officer as defined in section 16453
2941.1412 of the Revised Code, the court, after imposing a prison 16454
term on the offender for the felony offense under division (A), 16455
(D)(2), or (D)(3) of this section, shall impose an additional 16456
prison term of seven years upon the offender that, subject to 16457
section 2967.05 of the Revised Code, shall not be reduced pursuant 16458
to section 2929.20, section 2967.193, or any other provision of 16459
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 16460

not impose more than one additional prison term on an offender 16461
under division (D)(1)(f) of this section for felonies committed as 16462
part of the same act or transaction. If a court imposes an 16463
additional prison term on an offender under division (D)(1)(f) of 16464
this section relative to an offense, the court shall not impose a 16465
prison term under division (D)(1)(a) or (c) of this section 16466
relative to the same offense. 16467

(2)(a) If an offender who is convicted of or pleads guilty to 16468
a felony also is convicted of or pleads guilty to a specification 16469
of the type described in section 2941.149 of the Revised Code that 16470
the offender is a repeat violent offender, the court shall impose 16471
a prison term from the range of terms authorized for the offense 16472
under division (A) of this section that may be the longest term in 16473
the range and that, subject to section 2967.05 of the Revised 16474
Code, shall not be reduced pursuant to section 2929.20, section 16475
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 16476
of the Revised Code. If the court finds that the repeat violent 16477
offender, in committing the offense, caused any physical harm that 16478
carried a substantial risk of death to a person or that involved 16479
substantial permanent incapacity or substantial permanent 16480
disfigurement of a person, the court shall impose the longest 16481
prison term from the range of terms authorized for the offense 16482
under division (A) of this section. 16483

(b) If the court imposing a prison term on a repeat violent 16484
offender imposes the longest prison term from the range of terms 16485
authorized for the offense under division (A) of this section, the 16486
court may impose on the offender an additional definite prison 16487
term of one, two, three, four, five, six, seven, eight, nine, or 16488
ten years if the court finds that both of the following apply with 16489
respect to the prison terms imposed on the offender pursuant to 16490
division (D)(2)(a) of this section and, if applicable, divisions 16491
(D)(1) and (3) of this section: 16492

(i) The terms so imposed are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(ii) The terms so imposed are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(3)(a) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of 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 2967.05 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.

(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.

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 2967.05 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 16589
not impose more than one prison term on an offender under division 16590
(D)(5) of this section for felonies committed as part of the same 16591
act. 16592

(6) If an offender is convicted of or pleads guilty to a 16593
violation of division (A)(1) or (2) of section 2903.06 of the 16594
Revised Code and also is convicted of or pleads guilty to a 16595
specification of the type described in section 2941.1415 of the 16596
Revised Code that charges that the offender previously has been 16597
convicted of or pleaded guilty to three or more violations of 16598
division (A) or (B) of section 4511.19 of the Revised Code or an 16599
equivalent offense, as defined in section 2941.1415 of the Revised 16600
Code, or three or more violations of any combination of those 16601
divisions and offenses, the court shall impose on the offender a 16602
prison term of three years. If a court imposes a prison term on an 16603
offender under division (D)(6) of this section, subject to section 16604
2967.05 of the Revised Code, the prison term shall not be reduced 16605
pursuant to section 2929.20, section 2967.193, or any other 16606
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 16607
court shall not impose more than one prison term on an offender 16608
under division (D)(6) of this section for felonies committed as 16609
part of the same act. 16610

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 16611
mandatory prison term is imposed upon an offender pursuant to 16612
division (D)(1)(a) of this section for having a firearm on or 16613
about the offender's person or under the offender's control while 16614
committing a felony, if a mandatory prison term is imposed upon an 16615
offender pursuant to division (D)(1)(c) of this section for 16616
committing a felony specified in that division by discharging a 16617
firearm from a motor vehicle, or if both types of mandatory prison 16618
terms are imposed, the offender shall serve any mandatory prison 16619
term imposed under either division consecutively to any other 16620

mandatory prison term imposed under either division or under 16621
division (D)(1)(d) of this section, consecutively to and prior to 16622
any prison term imposed for the underlying felony pursuant to 16623
division (A), (D)(2), or (D)(3) of this section or any other 16624
section of the Revised Code, and consecutively to any other prison 16625
term or mandatory prison term previously or subsequently imposed 16626
upon the offender. 16627

(b) If a mandatory prison term is imposed upon an offender 16628
pursuant to division (D)(1)(d) of this section for wearing or 16629
carrying body armor while committing an offense of violence that 16630
is a felony, the offender shall serve the mandatory term so 16631
imposed consecutively to any other mandatory prison term imposed 16632
under that division or under division (D)(1)(a) or (c) of this 16633
section, consecutively to and prior to any prison term imposed for 16634
the underlying felony under division (A), (D)(2), or (D)(3) of 16635
this section or any other section of the Revised Code, and 16636
consecutively to any other prison term or mandatory prison term 16637
previously or subsequently imposed upon the offender. 16638

(c) If a mandatory prison term is imposed upon an offender 16639
pursuant to division (D)(1)(f) of this section, the offender shall 16640
serve the mandatory prison term so imposed consecutively to and 16641
prior to any prison term imposed for the underlying felony under 16642
division (A), (D)(2), or (D)(3) of this section or any other 16643
section of the Revised Code, and consecutively to any other prison 16644
term or mandatory prison term previously or subsequently imposed 16645
upon the offender. 16646

(2) If an offender who is an inmate in a jail, prison, or 16647
other residential detention facility violates section 2917.02, 16648
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 16649
who is under detention at a detention facility commits a felony 16650
violation of section 2923.131 of the Revised Code, or if an 16651
offender who is an inmate in a jail, prison, or other residential 16652

detention facility or is under detention at a detention facility 16653
commits another felony while the offender is an escapee in 16654
violation of section 2921.34 of the Revised Code, any prison term 16655
imposed upon the offender for one of those violations shall be 16656
served by the offender consecutively to the prison term or term of 16657
imprisonment the offender was serving when the offender committed 16658
that offense and to any other prison term previously or 16659
subsequently imposed upon the offender. 16660

(3) If a prison term is imposed for a violation of division 16661
(B) of section 2911.01 of the Revised Code, a violation of 16662
division (A) of section 2913.02 of the Revised Code in which the 16663
stolen property is a firearm or dangerous ordnance, or a felony 16664
violation of division (B) of section 2921.331 of the Revised Code, 16665
the offender shall serve that prison term consecutively to any 16666
other prison term or mandatory prison term previously or 16667
subsequently imposed upon the offender. 16668

(4) If multiple prison terms are imposed on an offender for 16669
convictions of multiple offenses, the court may require the 16670
offender to serve the prison terms consecutively if the court 16671
finds that the consecutive service is necessary to protect the 16672
public from future crime or to punish the offender and that 16673
consecutive sentences are not disproportionate to the seriousness 16674
of the offender's conduct and to the danger the offender poses to 16675
the public, and if the court also finds any of the following: 16676

(a) The offender committed one or more of the multiple 16677
offenses while the offender was awaiting trial or sentencing, was 16678
under a sanction imposed pursuant to section 2929.16, 2929.17, or 16679
2929.18 of the Revised Code, or was under post-release control for 16680
a prior offense. 16681

(b) At least two of the multiple offenses were committed as 16682
part of one or more courses of conduct, and the harm caused by two 16683

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 under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(J) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or

third degree that is an offense of violence also is convicted of 16746
or pleads guilty to a specification of the type described in 16747
section 2941.143 of the Revised Code that charges the offender 16748
with having committed the offense in a school safety zone or 16749
towards a person in a school safety zone, the court shall impose 16750
upon the offender an additional prison term of two years. The 16751
offender shall serve the additional two years consecutively to and 16752
prior to the prison term imposed for the underlying offense. 16753

(K) At the time of sentencing, the court may recommend the 16754
offender for placement in a program of shock incarceration under 16755
section 5120.031 of the Revised Code or for placement in an 16756
intensive program prison under section 5120.032 of the Revised 16757
Code, disapprove placement of the offender in a program of shock 16758
incarceration or an intensive program prison of that nature, or 16759
make no recommendation on placement of the offender. In no case 16760
shall the department of rehabilitation and correction place the 16761
offender in a program or prison of that nature unless the 16762
department determines as specified in section 5120.031 or 5120.032 16763
of the Revised Code, whichever is applicable, that the offender is 16764
eligible for the placement. 16765

If the court disapproves placement of the offender in a 16766
program or prison of that nature, the department of rehabilitation 16767
and correction shall not place the offender in any program of 16768
shock incarceration or intensive program prison. 16769

If the court recommends placement of the offender in a 16770
program of shock incarceration or in an intensive program prison, 16771
and if the offender is subsequently placed in the recommended 16772
program or prison, the department shall notify the court of the 16773
placement and shall include with the notice a brief description of 16774
the placement. 16775

If the court recommends placement of the offender in a 16776

program of shock incarceration or in an intensive program prison 16777
and the department does not subsequently place the offender in the 16778
recommended program or prison, the department shall send a notice 16779
to the court indicating why the offender was not placed in the 16780
recommended program or prison. 16781

If the court does not make a recommendation under this 16782
division with respect to an offender and if the department 16783
determines as specified in section 5120.031 or 5120.032 of the 16784
Revised Code, whichever is applicable, that the offender is 16785
eligible for placement in a program or prison of that nature, the 16786
department shall screen the offender and determine if there is an 16787
available program of shock incarceration or an intensive program 16788
prison for which the offender is suited. If there is an available 16789
program of shock incarceration or an intensive program prison for 16790
which the offender is suited, the department shall notify the 16791
court of the proposed placement of the offender as specified in 16792
section 5120.031 or 5120.032 of the Revised Code and shall include 16793
with the notice a brief description of the placement. The court 16794
shall have ten days from receipt of the notice to disapprove the 16795
placement. 16796

Sec. 2967.05. Upon the recommendation of the director of 16797
rehabilitation and correction, accompanied by a certificate of the 16798
attending physician that ~~a prisoner or convict~~ an inmate is 16799
terminally ill, medically incapacitated, or in imminent danger of 16800
death, the governor may order ~~his~~ the inmate's release ~~as if on~~ 16801
~~parole, reserving the right to return him to the institution~~ 16802
~~pursuant to this section. If, subsequent to his release, his~~ 16803
~~health improves so that he is no longer in imminent danger of~~ 16804
~~death, he shall be returned, by order of the governor, to the~~ 16805
~~institution from which he was released.~~ The governor may direct 16806
the adult parole authority to conduct an investigation and prepare 16807

a recommendation regarding the release. An inmate so released 16808
shall be subject to supervision by the adult parole authority, as 16809
may be recommended by the adult parole authority and approved by 16810
the governor. If ~~he~~ the inmate violates any rules or conditions 16811
applicable to ~~him~~ the inmate, ~~he~~ the inmate may be returned to an 16812
institution under the control of the department of rehabilitation 16813
and correction. The adult parole authority shall adopt rules under 16814
Chapter 119. of the Revised Code to establish the eligibility and 16815
procedures for medical releases under this section when an inmate 16816
is terminally ill, medically incapacitated, or in imminent danger 16817
of death. 16818

Sec. 2967.13. (A) Except as provided in division (G) of this 16819
section, a prisoner serving a sentence of imprisonment for life 16820
for an offense committed on or after July 1, 1996, is not entitled 16821
to any earned credit under section 2967.193 of the Revised Code 16822
and becomes eligible for parole as follows: 16823

(1) If a sentence of imprisonment for life was imposed for 16824
the offense of murder, at the expiration of the prisoner's minimum 16825
term; 16826

(2) If a sentence of imprisonment for life with parole 16827
eligibility after serving twenty years of imprisonment was imposed 16828
pursuant to section 2929.022 or 2929.03 of the Revised Code, after 16829
serving a term of twenty years; 16830

(3) If a sentence of imprisonment for life with parole 16831
eligibility after serving twenty-five full years of imprisonment 16832
was imposed pursuant to section 2929.022 or 2929.03 of the Revised 16833
Code, after serving a term of twenty-five full years; 16834

(4) If a sentence of imprisonment for life with parole 16835
eligibility after serving thirty full years of imprisonment was 16836
imposed pursuant to section 2929.022 or 2929.03 of the Revised 16837
Code, after serving a term of thirty full years; 16838

(5) If a sentence of imprisonment for life was imposed for rape, after serving a term of ten full years' imprisonment; 16839
16840

(6) If a sentence of imprisonment for life with parole eligibility after serving fifteen years of imprisonment was imposed for a violation of section 2927.24 of the Revised Code, after serving a term of fifteen years. 16841
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(B) Except as provided in division (G) of this section, a prisoner serving a sentence of imprisonment for life with parole eligibility after serving twenty years of imprisonment or a sentence of imprisonment for life with parole eligibility after serving twenty-five full years or thirty full years of imprisonment imposed pursuant to section 2929.022 or 2929.03 of the Revised Code for an offense committed on or after July 1, 1996, consecutively to any other term of imprisonment, becomes eligible for parole after serving twenty years, twenty full years, or thirty full years, as applicable, as to each such sentence of life imprisonment, which shall not be reduced for earned credits under section 2967.193 of the Revised Code, plus the term or terms of the other sentences consecutively imposed or, if one of the other sentences is another type of life sentence with parole eligibility, the number of years before parole eligibility for that sentence. 16845
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(C) Except as provided in division (G) of this section, a prisoner serving consecutively two or more sentences in which an indefinite term of imprisonment is imposed becomes eligible for parole upon the expiration of the aggregate of the minimum terms of the sentences. 16861
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(D) Except as provided in division (G) of this section, a prisoner serving a term of imprisonment who is described in division (A) of section 2967.021 of the Revised Code becomes eligible for parole as described in that division or, if the 16866
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prisoner is serving a definite term of imprisonment, shall be 16870
released as described in that division. 16871

(E) A prisoner serving a sentence of life imprisonment 16872
without parole imposed pursuant to section 2907.02 or section 16873
2929.03 or 2929.06 of the Revised Code is not eligible for parole 16874
and, subject to section 2967.05 of the Revised Code, shall be 16875
imprisoned until death. 16876

(F) A prisoner serving a stated prison term shall be released 16877
in accordance with section 2967.28 of the Revised Code. 16878

(G) A prisoner serving a prison term or term of life 16879
imprisonment without parole imposed pursuant to section 2971.03 of 16880
the Revised Code never becomes eligible for parole during that 16881
term of imprisonment. 16882

Sec. 2971.05. (A)(1) After control over an offender's service 16883
of a prison term imposed pursuant to division (A)(3) of section 16884
2971.03 of the Revised Code has been transferred pursuant to 16885
section 2971.04 of the Revised Code to the court, the court shall 16886
schedule, within thirty days of any of the following, a hearing on 16887
whether to modify in accordance with division (C) of this section 16888
the requirement that the offender serve the entire prison term in 16889
a state correctional institution or to terminate the prison term 16890
in accordance with division (D) of this section: 16891

(a) Control over the offender's service of a prison term is 16892
transferred pursuant to section 2971.04 of the Revised Code to the 16893
court, and no hearing to modify the requirement has been held; 16894

(b) Two years elapse after the most recent prior hearing held 16895
pursuant to division (A)(1) or (2) of this section; 16896

(c) The prosecuting attorney, the department of 16897
rehabilitation and correction, or the adult parole authority 16898
requests the hearing, and recommends that the requirement be 16899

modified or that the offender's prison term be terminated. 16900

(2) After control over the offender's service of a prison 16901
term has been transferred pursuant to section 2971.04 of the 16902
Revised Code to the court, the court, within thirty days of either 16903
of the following, shall conduct a hearing on whether to modify in 16904
accordance with division (C) of this section the requirement that 16905
the offender serve the entire prison term in a state correctional 16906
institution, whether to continue, revise, or revoke an existing 16907
modification of that requirement, or whether to terminate the term 16908
in accordance with division (D) of this section: 16909

(a) The requirement that the offender serve the entire prison 16910
term in a state correctional institution has been modified, and 16911
the offender is taken into custody for any reason. 16912

(b) The department of rehabilitation and correction or the 16913
prosecuting attorney notifies the court pursuant to section 16914
2971.06 of the Revised Code regarding a known or suspected 16915
violation of a term or condition of the modification or a belief 16916
that there is a substantial likelihood that the offender has 16917
committed or is about to commit a sexually violent offense. 16918

(3) After control over the offender's service of a prison 16919
term has been transferred pursuant to section 2971.04 of the 16920
Revised Code to the court, the court, in any of the following 16921
circumstances, may conduct a hearing within thirty days to 16922
determine whether to modify in accordance with division (C) of 16923
this section the requirement that the offender serve the entire 16924
prison term in a state correctional institution, whether to 16925
continue, revise, or revoke an existing modification of that 16926
requirement, or whether to terminate the sentence in accordance 16927
with division (D) of this section: 16928

(a) The offender requests the hearing; 16929

(b) Upon the court's own motion; 16930

(c) One or more examiners who have conducted a psychological examination and assessment of the offender file a statement that states that there no longer is a likelihood that the offender will engage in the future in a sexually violent offense.

(B)(1) Before a court holds a hearing pursuant to division (A) of this section, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender, the prosecuting attorney, the department of rehabilitation and correction, and the adult parole authority and shall request the department to prepare pursuant to section 5120.61 of the Revised Code an update of the most recent risk assessment and report relative to the offender. The offender has the right to be present at any hearing held under this section. At the hearing, the offender and the prosecuting attorney may make a statement and present evidence as to whether the requirement should or should not be modified, whether the existing modification of the requirement should be continued, revised, or revoked, and whether the prison term should or should not be terminated.

(2) At a hearing held pursuant to division (A) of this section, the court may and, if the hearing is held pursuant to division (A)(1)(a), (1)(b), or (3)(c) of this section, shall determine by clear and convincing evidence whether the offender is unlikely to commit a sexually violent offense in the future.

(3) At the conclusion of the hearing held pursuant to division (A) of this section, the court may order that the requirement that the offender serve the entire prison term in a state correctional institution be continued, that the requirement be modified pursuant to division (C) of this section, that an existing modification be continued, revised, or revoked pursuant to division (C) of this section, or that the prison term be terminated pursuant to division (D) of this section.

(C)(1) If, at the conclusion of a hearing held pursuant to 16962
division (A) of this section, the court determines by clear and 16963
convincing evidence that the offender will not represent a 16964
substantial risk of physical harm to others, the court may modify 16965
the requirement that the offender serve the entire prison term in 16966
a state correctional institution in a manner that the court 16967
considers appropriate. If the court modifies the requirement, the 16968
offender is subject to supervision under division (E) of this 16969
section. 16970

(2) The modification of the requirement does not terminate 16971
the prison term but serves only to suspend the requirement that 16972
the offender serve the entire term in a state correctional 16973
institution. The prison term shall remain in effect for the 16974
offender's entire life unless the court terminates the prison term 16975
pursuant to division (D) of this section. The offender shall 16976
remain under the jurisdiction of the court for the offender's 16977
entire life unless the court so terminates the prison term. The 16978
modification of the requirement does not terminate the 16979
classification of the offender, as described in division (F) of 16980
section 2971.03 of the Revised Code, as a sexual predator for 16981
purposes of Chapter 2950. of the Revised Code, and the offender is 16982
subject to supervision under division (E) of this section. 16983

(3) If the court revokes the modification under 16984
consideration, the court shall order that the offender be returned 16985
to the custody of the department of rehabilitation and correction 16986
to continue serving the prison term to which the modification 16987
applied, and section 2971.06 of the Revised Code applies regarding 16988
the offender. 16989

(D)(1) If, at the conclusion of a hearing held pursuant to 16990
division (A) of this section, the court determines by clear and 16991
convincing evidence that the offender is unlikely to commit a 16992
sexually violent offense in the future, the court may terminate 16993

the offender's prison term imposed under division (A)(3) of 16994
section 2971.03 of the Revised Code, subject to the offender 16995
satisfactorily completing the period of conditional release 16996
required by this division and compliance with division (E) of this 16997
section. If the court terminates the prison term, the court shall 16998
place the offender on conditional release for five years, require 16999
the offender to comply with division (E) of this section, notify 17000
the adult parole authority of its determination and of the 17001
termination of the prison term, and order the adult parole 17002
authority to supervise the offender during the five-year period of 17003
conditional release and to supervise the offender pursuant to 17004
division (E) of this section. Upon receipt of a notice from a 17005
court pursuant to this division, the adult parole authority shall 17006
supervise the offender who is the subject of the notice during the 17007
five-year period of conditional release, periodically notify the 17008
court of the offender's activities during that five-year period of 17009
conditional release, and file with the court no later than thirty 17010
days prior to the expiration of the five-year period of 17011
conditional release a written recommendation as to whether the 17012
termination of the offender's prison term should be finalized, 17013
whether the period of conditional release should be extended, or 17014
whether another type of action authorized pursuant to this chapter 17015
should be taken. 17016

Upon receipt of a recommendation of the adult parole 17017
authority filed pursuant to this division, the court shall hold a 17018
hearing to determine whether to finalize the termination of the 17019
offender's prison term, to extend the period of conditional 17020
release, or to take another type of action authorized pursuant to 17021
this chapter. The court shall hold the hearing no later than the 17022
date on which the five-year period of conditional release 17023
terminates and shall provide notice of the date, time, place, and 17024
purpose of the hearing to the offender and to the prosecuting 17025

attorney. At the hearing, the offender, the prosecuting attorney, 17026
and the adult parole authority employee who supervised the 17027
offender during the period of conditional release may make a 17028
statement and present evidence. 17029

(2) If the court determines to extend an offender's period of 17030
conditional release, it may do so for additional periods of one 17031
year in the same manner as the original period of conditional 17032
release, and except as otherwise described in this division, all 17033
procedures and requirements that applied to the original period of 17034
conditional release apply to the additional period of extended 17035
conditional release unless the court modifies a procedure or 17036
requirement. If an offender's period of conditional release is 17037
extended as described in this division, all references to a 17038
five-year period of conditional release that are contained in 17039
division (D)(1) of this section shall be construed, in applying 17040
the provisions of that division to the extension, as being 17041
references to the one-year period of the extension of the 17042
conditional release. 17043

If the court determines to take another type of action 17044
authorized pursuant to this chapter, it may do so in the same 17045
manner as if the action had been taken at any other stage of the 17046
proceedings under this chapter. As used in this division, "another 17047
type of action" includes the revocation of the conditional release 17048
and the return of the offender to a state correctional institution 17049
to continue to serve the prison term. 17050

If the court determines to finalize the termination of the 17051
offender's prison term, it shall notify the department of 17052
rehabilitation and correction, the department shall enter into its 17053
records a final release and issue to the offender a certificate of 17054
final release, and the prison term thereafter shall be considered 17055
completed and terminated in every way. 17056

The termination of the offender's prison term pursuant to division (D)(1) or (2) of this section does not affect the classification of the offender, as described in division (F) of section 2971.03 of the Revised Code, as a sexual predator for purposes of Chapter 2950. of the Revised Code, and does not terminate the adult parole authority's supervision of a sexually violent predator with an active global positioning system device, pursuant to division (E) of this section. The classification of the offender as a sexual predator is permanent and continues until the offender's death as described in division (D)(2) of section 2950.09 of the Revised Code.

(E) The adult parole authority shall supervise an offender whose prison term is modified as provided in division (C) of this section or whose prison term is terminated as provided in division (D) of this section with an active global positioning system device during any time period in which the offender is not incarcerated in a state correctional institution. Unless the court removes the offender's classification as a sexually violent predator, an offender is subject to supervision with an active global positioning system pursuant to this division for the offender's entire life. The costs of administering the supervision of sexually violent offenders with an active global positioning system device shall be paid out of funds from the reparations fund, created pursuant to section 2743.191 of the Revised Code. This division shall only apply to a sexually violent predator who is released from the custody of the department of rehabilitation and correction on or after the effective date of this amendment.

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the Revised Code, as used in this section, "agency" does not include a public children services agency.

(B) An agency or attorney, whichever arranges a minor's

adoption, shall file with the court a preliminary estimate 17088
accounting not later than the time the adoption petition for the 17089
minor is filed with the court. The agency or attorney, whichever 17090
arranges the adoption, also shall file a final accounting with the 17091
court before a final decree of adoption is issued or an 17092
interlocutory order of adoption is finalized for the minor. The 17093
agency or attorney shall complete and file accountings in a manner 17094
acceptable to the court. 17095

An accounting shall specify all disbursements of anything of 17096
value the petitioner, a person on the petitioner's behalf, and the 17097
agency or attorney made and has agreed to make in connection with 17098
the minor's permanent surrender under division (B) of section 17099
5103.15 of the Revised Code, placement under section 5103.16 of 17100
the Revised Code, and adoption under this chapter. The agency or 17101
attorney shall include in an accounting an itemization of each 17102
expense listed in division (C) of this section. The itemization of 17103
the expenses specified in divisions (C)(3) and (4) of this section 17104
shall show the amount the agency or attorney charged or is going 17105
to charge for the services and the actual cost to the agency or 17106
attorney of providing the services. An accounting shall indicate 17107
whether any expenses listed in division (C) of this section do not 17108
apply to the adoption proceeding for which the accounting is 17109
filed. 17110

The agency or attorney shall include with a preliminary 17111
estimate accounting and a final accounting a written statement 17112
signed by the petitioner that the petitioner has reviewed the 17113
accounting and attests to its accuracy. 17114

(C) No petitioner, person acting on a petitioner's behalf, or 17115
agency or attorney shall make or agree to make any disbursements 17116
in connection with the minor's permanent surrender, placement, or 17117
adoption other than for the following: 17118

(1) Physician expenses incurred on behalf of the birth mother	17119
or minor in connection with prenatal care, delivery, and	17120
confinement prior to or following the minor's birth;	17121
(2) Hospital or other medical facility expenses incurred on	17122
behalf of the birth mother or minor in connection with the minor's	17123
birth;	17124
(3) Expenses charged by the attorney arranging the adoption	17125
for providing legal services in connection with the placement and	17126
adoption, including expenses incurred by the attorney pursuant to	17127
sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the	17128
Revised Code;	17129
(4) Expenses charged by the agency arranging the adoption for	17130
providing services in connection with the permanent surrender and	17131
adoption, including the agency's application fee and the expenses	17132
incurred by the agency pursuant to sections 3107.031, 3107.09,	17133
3107.12, 5103.151, and 5103.152 of the Revised Code;	17134
(5) Temporary costs of routine maintenance and medical care	17135
for a minor required under section 5103.16 of the Revised Code if	17136
the person seeking to adopt the minor refuses to accept placement	17137
of the minor;	17138
(6) Guardian ad litem fees incurred on behalf of the minor in	17139
any court proceedings;	17140
(7) Foster care expenses incurred in connection with any	17141
temporary care and maintenance of the minor;	17142
(8) Court expenses incurred in connection with the minor's	17143
permanent surrender, placement, and adoption.	17144
(D) If a court determines from an accounting that an amount	17145
that is going to be disbursed for an expense listed in division	17146
(C) of this section is unreasonable, the court may order a	17147
reduction in the amount to be disbursed. If a court determines	17148

from an accounting that an unreasonable amount was disbursed for 17149
an expense listed in division (C) of this section, the court may 17150
order the person who received the disbursement to refund to the 17151
person who made the disbursement an amount the court orders. 17152

If a court determines from an accounting that a disbursement 17153
for an expense not permitted by division (C) of this section is 17154
going to be made, the court may issue an injunction prohibiting 17155
the disbursement. If a court determines from an accounting that a 17156
disbursement for an expense not permitted by division (C) of this 17157
section was made, the court may order the person who received the 17158
disbursement to return it to the person who made the disbursement. 17159

If a court determines that a final accounting does not 17160
completely report all the disbursements that are going to be made 17161
or have been made in connection with the minor's permanent 17162
surrender, placement, and adoption, the court shall order the 17163
agency or attorney to file with the court an accounting that 17164
completely reports all such disbursements. 17165

The agency or attorney shall file the final accounting with 17166
the court not later than ten days prior to the date scheduled for 17167
the final hearing on the adoption. The court may not issue a final 17168
decree of adoption or finalize an interlocutory order of adoption 17169
of a minor until at least ten days after the agency or attorney 17170
files the final accounting. 17171

~~(E) At the conclusion of each adoption proceeding, the court 17172
shall prepare a summary of the proceeding, and on or before the 17173
tenth day of each month, send copies of the summaries for all 17174
proceedings concluded during the preceding calendar month to the 17175
department of job and family services. The summary shall contain:~~ 17176

~~(1) A notation of the nature and approximate value or amount 17177
of anything paid in connection with the proceeding, compiled from 17178
the final accounting required by division (B) of this section and 17179~~

~~indicating the category of division (C) of this section to which
any payment relates;~~ 17180
17181

~~(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;~~ 17182
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~~(3) If the adoption was arranged by an attorney, a notation
of that fact.~~ 17187
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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.~~ 17189
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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.~~ 17193
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Sec. 3111.04. (A) An action to determine the existence or 17196
nonexistence of the father and child relationship may be brought 17197
by the child or the child's personal representative, the child's 17198
mother or her personal representative, a man alleged or alleging 17199
himself to be the child's father, the child support enforcement 17200
agency of the county in which the child resides if the child's 17201
mother is a recipient of public assistance or of services under 17202
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 17203
U.S.C.A. 651, as amended, or the alleged father's personal 17204
representative. 17205

(B) An agreement does not bar an action under this section. 17206

(C) If an action under this section is brought before the 17207
birth of the child and if the action is contested, all 17208
proceedings, except service of process and the taking of 17209

depositions to perpetuate testimony, may be stayed until after the 17210
birth. 17211

(D) A recipient of public assistance or of services under 17212
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 17213
U.S.C.A. 651, as amended, shall cooperate with the child support 17214
enforcement agency of the county in which a child resides to 17215
obtain an administrative determination pursuant to sections 17216
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 17217
determination pursuant to sections 3111.01 to 3111.18 of the 17218
Revised Code, of the existence or nonexistence of a parent and 17219
child relationship between the father and the child. If the 17220
recipient fails to cooperate, the agency may commence an action to 17221
determine the existence or nonexistence of a parent and child 17222
relationship between the father and the child pursuant to sections 17223
3111.01 to 3111.18 of the Revised Code. 17224

(E) As used in this section, "public assistance" means 17225
medical assistance under Chapter 5111. of the Revised Code, 17226
assistance under Chapter 5107. of the Revised Code, or disability 17227
financial assistance under Chapter 5115. of the Revised Code, ~~or~~ 17228
~~disability medical assistance under Chapter 5115. of the Revised~~ 17229
~~Code.~~ 17230

Sec. 3119.54. If either party to a child support order issued 17231
in accordance with section 3119.30 of the Revised Code is eligible 17232
for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised 17233
Code and the other party has obtained health insurance coverage, 17234
the party eligible for medical assistance shall notify any 17235
physician, hospital, or other provider of medical services for 17236
which medical assistance is available of the name and address of 17237
the other party's insurer and of the number of the other party's 17238
health insurance or health care policy, contract, or plan. Any 17239
physician, hospital, or other provider of medical services for 17240

which medical assistance is available under Chapter 5111. ~~or 5115.~~ 17241
of the Revised Code who is notified under this division of the 17242
existence of a health insurance or health care policy, contract, 17243
or plan with coverage for children who are eligible for medical 17244
assistance shall first bill the insurer for any services provided 17245
for those children. If the insurer fails to pay all or any part of 17246
a claim filed under this section and the services for which the 17247
claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the 17248
Revised Code, the physician, hospital, or other medical services 17249
provider shall bill the remaining unpaid costs of the services in 17250
accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code. 17251

Sec. 3121.12. (A) On receipt of a notice that a lump sum 17252
payment of one hundred fifty dollars or more is to be paid to the 17253
obligor, the court, with respect to a court support order, or the 17254
child support enforcement agency, with respect to an 17255
administrative child support order, shall do either of the 17256
following: 17257

(1) If the obligor is in default under the support order or 17258
has any arrearages under the support order, issue an order 17259
requiring the transmittal of the lump sum payment, or any portion 17260
of the lump sum payment sufficient to pay the arrearage in full, 17261
to the office of child support; 17262

(2) If the obligor is not in default under the support order 17263
and does not have any arrearages under the support order, issue an 17264
order directing the person who gave the notice to the court or 17265
agency to immediately pay the full amount of the lump sum payment 17266
to the obligor. 17267

(B) ~~On receipt of any~~ Any moneys received by the office of 17268
child support pursuant to division (A) of this section, ~~the office~~ 17269
~~of child support shall pay the amount of the lump sum payment that~~ 17270

~~is necessary to discharge all of the obligor's arrearages to the~~ 17271
~~obligee and, within two business days after its receipt of the~~ 17272
~~money, any amount that is remaining after the payment of the~~ 17273
~~arrearsages to the obligor~~ be distributed in accordance with rules 17274
adopted under section 3121.71 of the Revised Code. 17275

(C) A court that issued an order prior to January 1, 1998, 17276
requiring an employer to withhold an amount from an obligor's 17277
personal earnings for the payment of support shall issue a 17278
supplemental order that does not change the original order or the 17279
related support order requiring the employer to do all of the 17280
following: 17281

(1) No later than the earlier of forty-five days before a 17282
lump sum payment is to be made or, if the obligor's right to a 17283
lump sum payment is determined less than forty-five days before it 17284
is to be made, the date on which that determination is made, 17285
notify the child support enforcement agency of any lump sum 17286
payment of any kind of one hundred fifty dollars or more that is 17287
to be paid to the obligor; 17288

(2) Hold the lump sum payment for thirty days after the date 17289
on which it would otherwise be paid to the obligor; 17290

(3) On order of the court, pay any specified amount of the 17291
lump sum payment to the office of child support. 17292

(D) An employer that knowingly fails to notify the child 17293
support enforcement agency in accordance with this section or 17294
section 3121.03 of the Revised Code of any lump sum payment to be 17295
made to an obligor is liable for any support payment not made to 17296
the obligee as a result of its knowing failure to give the notice. 17297

Sec. 3121.50. On receipt of any amount forwarded from a payor 17298
or financial institution, the office of child support shall 17299
distribute the amount to the obligee within two business days of 17300

its receipt of the amount forwarded. ~~The~~ Unless otherwise 17301
prohibited from doing so by a law of this state or the United 17302
States, the office may distribute the amount by means of 17303
electronic disbursement, and the obligee shall accept payment by 17304
means of electronic disbursement. The director of job and family 17305
services may adopt, revise, or amend rules under Chapter 119. of 17306
the Revised Code to assist in the implementation of this section. 17307

Sec. 3125.18. A child support enforcement agency shall 17308
administer a Title IV-A program identified under division 17309
(A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised Code that 17310
the department of job and family services provides for the agency 17311
to administer under the department's supervision pursuant to 17312
section 5101.801 of the Revised Code. 17313

Sec. 3125.191. There is hereby created in the state treasury 17314
the child support operating fund, which is a state special revenue 17315
fund. The department of job and family services may deposit into 17316
the fund a portion of the federal incentives described in division 17317
(A) of section 3125.19 of the Revised Code and authorized by 42 17318
U.S.C. 658a that are received by the department of job and family 17319
services from the United States department of health and human 17320
services. The department of job and family services may use money 17321
in the child support operating fund for program and administrative 17322
purposes associated with the program of child support enforcement 17323
authorized by section 3125.03 of the Revised Code. 17324

Sec. 3301.079. (A)(1) Not later than December 31, 2001, the 17325
state board of education shall adopt statewide academic standards 17326
for each of grades kindergarten through twelve in reading, 17327
writing, and mathematics. Not later than December 31, 2002, the 17328
state board shall adopt statewide academic standards for each of 17329
grades kindergarten through twelve in science and social studies. 17330

The standards shall specify the academic content and skills that 17331
students are expected to know and be able to do at each grade 17332
level. 17333

(2) When academic standards have been completed for any 17334
subject area required by this division, the state board shall 17335
inform all school districts of the content of those standards. 17336

(B) Not later than eighteen months after the completion of 17337
academic standards for any subject area required by division (A) 17338
of this section, the state board shall adopt a model curriculum 17339
for instruction in that subject area for each of grades 17340
kindergarten through twelve that is sufficient to meet the needs 17341
of students in every community. The model curriculum shall be 17342
aligned with the standards to ensure that the academic content and 17343
skills specified for each grade level are taught to students. When 17344
any model curriculum has been completed, the state board shall 17345
inform all school districts of the content of that model 17346
curriculum. 17347

All school districts may utilize the state standards and the 17348
model curriculum established by the state board, together with 17349
other relevant resources, examples, or models to ensure that 17350
students have the opportunity to attain the academic standards. 17351
Upon request, the department of education shall provide technical 17352
assistance to any district in implementing the model curriculum. 17353

Nothing in this section requires any school district to 17354
utilize all or any part of a model curriculum developed under this 17355
division. 17356

(C) The state board shall develop achievement tests aligned 17357
with the academic standards and model curriculum for each of the 17358
subject areas and grade levels required by section 3301.0710 of 17359
the Revised Code. 17360

When any achievement test has been completed, the state board 17361

shall inform all school districts of its completion, and the 17362
department of education shall make the achievement test available 17363
to the districts. School districts shall administer the 17364
achievement test beginning in the school year indicated in section 17365
3301.0712 of the Revised Code. 17366

~~(D)(1) Not later than July 1, 2008, and except as provided in~~ 17367
~~division (D)(3) of this section, the~~ The state board shall adopt a 17368
diagnostic assessment aligned with the academic standards and 17369
model curriculum for each of grades kindergarten through two in 17370
reading, writing, and mathematics and for ~~each of grades~~ grade 17371
~~three through eight in reading, writing, mathematics, science, and~~ 17372
~~social studies.~~ The diagnostic assessment shall be designed to 17373
measure student comprehension of academic content and mastery of 17374
related skills for the relevant subject area and grade level. Any 17375
diagnostic assessment shall not include components to identify 17376
gifted students. Blank copies of diagnostic tests shall be public 17377
records. 17378

(2) When each diagnostic assessment has been completed, the 17379
state board shall inform all school districts of its completion 17380
and the department of education shall make the diagnostic 17381
assessment available to the districts at no cost to the district. 17382
School districts shall administer the diagnostic assessment 17383
pursuant to section 3301.0715 of the Revised Code beginning the 17384
first school year following the development of the assessment. 17385

~~(3) The state board shall not adopt a diagnostic assessment~~ 17386
~~for any subject area and grade level for which the state board~~ 17387
~~develops an achievement test under division (C) of this section.~~ 17388

(E) Whenever the state board or the department of education 17389
consults with persons for the purpose of drafting or reviewing any 17390
standards, diagnostic assessments, achievement tests, or model 17391
curriculum required under this section, the state board or the 17392

department shall first consult with parents of students in 17393
kindergarten through twelfth grade and with active Ohio classroom 17394
teachers, other school personnel, and administrators with 17395
expertise in the appropriate subject area. Whenever practicable, 17396
the state board and department shall consult with teachers 17397
recognized as outstanding in their fields. 17398

If the department contracts with more than one outside entity 17399
for the development of the achievement tests required by this 17400
section, the department shall ensure the interchangeability of 17401
those tests. 17402

(F) The fairness sensitivity review committee, established by 17403
rule of the state board of education, shall not allow any question 17404
on any achievement test or diagnostic assessment developed under 17405
this section or any proficiency test prescribed by former section 17406
3301.0710 of the Revised Code, as it existed prior to September 17407
11, 2001, to include, be written to promote, or inquire as to 17408
individual moral or social values or beliefs. The decision of the 17409
committee shall be final. This section does not create a private 17410
cause of action. 17411

Sec. 3301.0710. The state board of education shall adopt 17412
rules establishing a statewide program to test student 17413
achievement. The state board shall ensure that all tests 17414
administered under the testing program are aligned with the 17415
academic standards and model curricula adopted by the state board 17416
and are created with input from Ohio parents, Ohio classroom 17417
teachers, Ohio school administrators, and other Ohio school 17418
personnel pursuant to section 3301.079 of the Revised Code. 17419

The testing program shall be designed to ensure that students 17420
who receive a high school diploma demonstrate at least high school 17421
levels of achievement in reading, writing, mathematics, science, 17422
and social studies. 17423

(A)(1) The state board shall prescribe all of the following:	17424
(a) Two statewide achievement tests, one each designed to measure the level of reading and mathematics skill expected at the end of third grade;	17425 17426 17427
(b) Three statewide achievement tests, one each designed to measure the level of reading, writing, and mathematics skill expected at the end of fourth grade;	17428 17429 17430
(c) Four statewide achievement tests, one each designed to measure the level of reading, mathematics, science, and social studies skill expected at the end of fifth grade;	17431 17432 17433
(d) Two statewide achievement tests, one each designed to measure the level of reading and mathematics skill expected at the end of sixth grade;	17434 17435 17436
(e) Three statewide achievement tests, one each designed to measure the level of reading, writing, and mathematics skill expected at the end of seventh grade;	17437 17438 17439
(f) Four statewide achievement tests, one each designed to measure the level of reading, mathematics, science, and social studies skill expected at the end of eighth grade.	17440 17441 17442
(2) The state board shall determine and designate at least 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:	17443 17444 17445 17446 17447 17448
(a) An advanced level of skill;	17449
(b) An accelerated level of skill;	17450
(c) A proficient level of skill;	17451
(d) A basic level of skill;	17452

(e) A limited level of skill. 17453

(B) The tests prescribed under this division shall 17454
collectively be known as the Ohio graduation tests. The state 17455
board shall prescribe five statewide high school achievement 17456
tests, one each designed to measure the level of reading, writing, 17457
mathematics, science, and social studies skill expected at the end 17458
of tenth grade. The state board shall designate a score in at 17459
least the range designated under division (A)(2)(c) of this 17460
section on each such test that shall be deemed to be a passing 17461
score on the test as a condition toward granting high school 17462
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 17463
of the Revised Code. 17464

The state board may enter into a reciprocal agreement with 17465
the appropriate body or agency of any other state that has similar 17466
statewide achievement testing requirements for receiving high 17467
school diplomas, under which any student who has met an 17468
achievement testing requirement of one state is recognized as 17469
having met the similar achievement testing requirement of the 17470
other state for purposes of receiving a high school diploma. For 17471
purposes of this section and sections 3301.0711 and 3313.61 of the 17472
Revised Code, any student enrolled in any public high school in 17473
this state who has met an achievement testing requirement 17474
specified in a reciprocal agreement entered into under this 17475
division shall be deemed to have attained at least the applicable 17476
score designated under this division on each test required by this 17477
division that is specified in the agreement. 17478

(C) ~~The~~ Except as provided in division (H) of this section, 17479
the state board shall annually designate as follows the dates on 17480
which the tests prescribed under this section shall be 17481
administered: 17482

(1) For the reading test prescribed under division (A)(1)(a) 17483

of this section, as follows: 17484

(a) One date prior to the thirty-first day of December each 17485
school year; 17486

(b) At least one date of each school year that is not earlier 17487
than Monday of the week containing the ~~eight~~ first day of ~~March~~ 17488
May; 17489

(c) One date during the summer that is not earlier than the 17490
tenth day of June nor later than the fifteenth day of July for 17491
students receiving summer remediation services under section 17492
3313.608 of the Revised Code. 17493

(2) For the mathematics test prescribed under division 17494
(A)(1)(a) of this section and the tests prescribed under divisions 17495
(A)(1)(b), (c), (d), (e), and (f) of this section, at least one 17496
date of each school year that is not earlier than Monday of the 17497
week containing the ~~eight~~ first day of ~~March~~ May; 17498

(3) For the tests prescribed under division (B) of this 17499
section, at least one date in each school year that is not earlier 17500
than Monday of the week containing the fifteenth day of March for 17501
all tenth grade students and at least one date prior to the 17502
thirty-first day of December and at least one date subsequent to 17503
that date but prior to the thirty-first day of March of each 17504
school year for eleventh and twelfth grade students. 17505

(D) In prescribing test dates pursuant to division (C)(3) of 17506
this section, the state board shall, to the greatest extent 17507
practicable, provide options to school districts in the case of 17508
tests administered under that division to eleventh and twelfth 17509
grade students and in the case of tests administered to students 17510
pursuant to division (C)(2) of section 3301.0711 of the Revised 17511
Code. Such options shall include at least an opportunity for 17512
school districts to give such tests outside of regular school 17513
hours. 17514

(E) In prescribing test dates pursuant to this section, the state board of education shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests prescribed under this section and any administration of the National Assessment of Education Progress Test given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

(F) The state board shall prescribe a practice version of each Ohio graduation test described in division (B) of this section that is of comparable length to the actual test.

(G) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the tests described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the tests if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate test scores based upon the recommendations of the task force.

(H)(1) The state board shall require any alternate assessment administered to a student under division (C)(1) of section

3301.0711 of the Revised Code to be completed and submitted to the 17546
entity with which the department contracts for the scoring of the 17547
test not later than the first day of April of the school year in 17548
which the test is administered. 17549

(2) For any test prescribed by this section, the state board 17550
may designate a date one week earlier than the applicable date 17551
designated under division (C) of this section for the 17552
administration of the test to limited English proficient students. 17553

(3) In designating days for the administration of the tests 17554
prescribed by division (A) of this section, the state board shall 17555
require the tests for each grade level to be administered on 17556
consecutive days. 17557

Sec. 3301.0711. (A) The department of education shall: 17558

(1) Annually furnish to, grade, and score all tests required 17559
by section 3301.0710 of the Revised Code to be administered by 17560
city, local, exempted village, and joint vocational school 17561
districts, except that each district shall score any test 17562
administered pursuant to division (B)(10) of this section. Each 17563
test so furnished shall include the data verification code of the 17564
student to whom the test will be administered, as assigned 17565
pursuant to division (D)(2) of section 3301.0714 of the Revised 17566
Code. In furnishing the practice versions of Ohio graduation tests 17567
prescribed by division (F) of section 3301.0710 of the Revised 17568
Code, the department shall make the tests available on its web 17569
site for reproduction by districts. In awarding contracts for 17570
grading tests, the department shall give preference to Ohio-based 17571
entities employing Ohio residents. 17572

(2) Adopt rules for the ethical use of tests and prescribing 17573
the manner in which the tests prescribed by section 3301.0710 of 17574
the Revised Code shall be administered to students. 17575

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that test under division (A)(2)(c) of section 3301.0710 of the Revised Code and once each summer to students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) Administer the mathematics test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

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

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

(5) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section,

administer any test prescribed under division (B) of section 17606
3301.0710 of the Revised Code as follows: 17607

(a) At least once annually to all tenth grade students and at 17608
least twice annually to all students in eleventh or twelfth grade 17609
who have not yet attained the score on that test designated under 17610
that division; 17611

(b) To any person who has successfully completed the 17612
curriculum in any high school or the individualized education 17613
program developed for the person by any high school pursuant to 17614
section 3323.08 of the Revised Code but has not received a high 17615
school diploma and who requests to take such test, at any time 17616
such test is administered in the district. 17617

(9) In lieu of the board of education of any city, local, or 17618
exempted village school district in which the student is also 17619
enrolled, the board of a joint vocational school district shall 17620
administer any test prescribed under division (B) of section 17621
3301.0710 of the Revised Code at least twice annually to any 17622
student enrolled in the joint vocational school district who has 17623
not yet attained the score on that test designated under that 17624
division. A board of a joint vocational school district may also 17625
administer such a test to any student described in division 17626
(B)(8)(b) of this section. 17627

(10) If the district has been declared to be under an 17628
academic watch or in a state of academic emergency pursuant to 17629
section 3302.03 of the Revised Code or has a three-year average 17630
graduation rate of not more than seventy-five per cent, administer 17631
each test prescribed by division (F) of section 3301.0710 of the 17632
Revised Code in September to all ninth grade students, beginning 17633
in the school year that starts July 1, 2005. 17634

(C)(1)(a) Any student receiving special education services 17635
under Chapter 3323. of the Revised Code may be excused from taking 17636

any particular test required to be administered under this section 17637
if the individualized education program developed for the student 17638
pursuant to section 3323.08 of the Revised Code excuses the 17639
student from taking that test and instead specifies an alternate 17640
assessment method approved by the department of education as 17641
conforming to requirements of federal law for receipt of federal 17642
funds for disadvantaged pupils. To the extent possible, the 17643
individualized education program shall not excuse the student from 17644
taking a test unless no reasonable accommodation can be made to 17645
enable the student to take the test. 17646

(b) Any alternate assessment approved by the department for a 17647
student under this division shall produce measurable results 17648
comparable to those produced by the tests which the alternate 17649
assessments are replacing in order to allow for the student's 17650
assessment results to be included in the data compiled for a 17651
school district or building under section 3302.03 of the Revised 17652
Code. 17653

(c) Any student enrolled in a chartered nonpublic school who 17654
has been identified, based on an evaluation conducted in 17655
accordance with section 3323.03 of the Revised Code or section 504 17656
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 17657
794, as amended, as a child with a disability shall be excused 17658
from taking any particular test required to be administered under 17659
this section if a plan developed for the student pursuant to rules 17660
adopted by the state board excuses the student from taking that 17661
test. In the case of any student so excused from taking a test, 17662
the chartered nonpublic school shall not prohibit the student from 17663
taking the test. 17664

(2) A district board may, for medical reasons or other good 17665
cause, excuse a student from taking a test administered under this 17666
section on the date scheduled, but any such test shall be 17667
administered to such excused student not later than nine days 17668

following the scheduled date. The board shall annually report the
number of students who have not taken one or more of the tests
required by this section to the state board of education not later
than the thirtieth day of June.

(3) As used in this division, "limited English proficient
student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English
proficient student from taking any particular test required to be
administered under this section, except that any limited English
proficient student who has been enrolled in United States schools
for less than one full school year shall not be required to take
any such reading or writing test. However, no board shall prohibit
a limited English proficient student who is not required to take a
test under this division from taking the test. A board may permit
any limited English proficient student to take any test required
to be administered under this section with appropriate
accommodations, as determined by the department. For each limited
English proficient student, each school district shall annually
assess that student's progress in learning English, in accordance
with procedures approved by the department.

The governing authority of a chartered nonpublic school may
excuse a limited English proficient student from taking any test
administered under this section. However, no governing authority
shall prohibit a limited English proficient student from taking
the test.

(D)(1) In the school year next succeeding the school year in
which the tests prescribed by division (A)(1) or (B) of section
3301.0710 of the Revised Code or former division (A)(1), (A)(2),
or (B) of section 3301.0710 of the Revised Code as it existed
prior to September 11, 2001, are administered to any student, the
board of education of any school district in which the student is

enrolled in that year shall provide to the student intervention services commensurate with the student's test performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the test.

(2) Following any administration of the tests prescribed by division (F) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the tests. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice tests. The district also shall consider the scores received by ninth grade students on the reading and mathematics tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services 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
following the day the student takes the test.

(2) The department or an entity with which the department
contracts for the scoring of the test shall send to each school
district board a list of the individual test scores of all persons
taking the any test prescribed by division (A)(1) or (B) of
section 3301.0710 of the Revised Code within sixty days after its
administration, but in no case shall the scores be returned later
than the fifteenth day of June following the administration. For
any tests administered under this section by a joint vocational
school district, the department or entity shall also send to each

city, local, or exempted village school district a list of the 17764
individual test scores of any students of such city, local, or 17765
exempted village school district who are attending school in the 17766
joint vocational school district. 17767

(H) Individual test scores on any tests administered under 17768
this section shall be released by a district board only in 17769
accordance with section 3319.321 of the Revised Code and the rules 17770
adopted under division (A) of this section. No district board or 17771
its employees shall utilize individual or aggregate test results 17772
in any manner that conflicts with rules for the ethical use of 17773
tests adopted pursuant to division (A) of this section. 17774

(I) Except as provided in division (G) of this section, the 17775
department or an entity with which the department contracts for 17776
the scoring of the test shall not release any individual test 17777
scores on any test administered under this section ~~and~~. The state 17778
board of education shall adopt rules to ensure the protection of 17779
student confidentiality at all times. The rules may require the 17780
use of the data verification codes assigned to students pursuant 17781
to division (D)(2) of section 3301.0714 of the Revised Code to 17782
protect the confidentiality of student test scores. 17783

(J) Notwithstanding division (D) of section 3311.52 of the 17784
Revised Code, this section does not apply to the board of 17785
education of any cooperative education school district except as 17786
provided under rules adopted pursuant to this division. 17787

(1) In accordance with rules that the state board of 17788
education shall adopt, the board of education of any city, 17789
exempted village, or local school district with territory in a 17790
cooperative education school district established pursuant to 17791
divisions (A) to (C) of section 3311.52 of the Revised Code may 17792
enter into an agreement with the board of education of the 17793
cooperative education school district for administering any test 17794
prescribed under this section to students of the city, exempted 17795

village, or local school district who are attending school in the cooperative education school district. 17796
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(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: 17798
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(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; 17806
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(b) Persons described in division (B)(8)(b) of this section. 17811

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. 17812
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(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department. 17815
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(2) The department of education shall furnish the tests 17826

prescribed by section 3301.0710 or 3301.0712 of the Revised Code 17827
to any chartered nonpublic school electing to participate under 17828
this division. 17829

(L)(1) The superintendent of the state school for the blind 17830
and the superintendent of the state school for the deaf shall 17831
administer the tests described by section 3301.0710 of the Revised 17832
Code. Each superintendent shall administer the tests in the same 17833
manner as district boards are required to do under this section 17834
and rules adopted by the department of education and in conformity 17835
with division (C)(1)(a) of this section. 17836

(2) The department of education shall furnish the tests 17837
described by section 3301.0710 of the Revised Code to each 17838
superintendent. 17839

(M) Notwithstanding division (E) of this section, a school 17840
district may use a student's failure to attain a score in at least 17841
the basic range on the mathematics test described by division 17842
(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 17843
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 17844
of section 3301.0710 of the Revised Code as a factor in retaining 17845
that student in the current grade level. 17846

(N)(1) ~~The~~ In the manner specified in divisions (N)(3) to (5) 17847
of this section, the tests required by section 3301.0710 of the 17848
Revised Code shall become public records pursuant to section 17849
149.43 of the Revised Code on the first day of July following the 17850
school year that the test was administered, except that the 17851
reading test prescribed under division (A)(1)(a) of section 17852
3301.0710 of the Revised Code shall become a public record on the 17853
sixteenth day of July following the school year that the test was 17854
administered. 17855

(2) The department may field test proposed test questions 17856
with samples of students to determine the validity, reliability, 17857

or appropriateness of test questions for possible inclusion in a 17858
future year's test. The department also may use anchor questions 17859
on tests to ensure that different versions of the same test are of 17860
comparable difficulty. 17861

Field test questions and anchor questions shall not be 17862
considered in computing test scores for individual students. Field 17863
test questions and anchor questions may be included as part of the 17864
administration of any test required by section 3301.0710 of the 17865
Revised Code. 17866

(3) Any field test question or anchor question administered 17867
under division (N)(2) of this section shall not be a public 17868
record. Such field test questions and anchor questions shall be 17869
redacted from any tests which are released as a public record 17870
pursuant to division (N)(1) of this section. 17871

(4) This division applies to the tests prescribed by division 17872
(A) of section 3301.0710 of the Revised Code. 17873

(a) The first administration of each test, as specified in 17874
section 3301.0712 of the Revised Code, shall be a public record. 17875

(b) For subsequent administrations of each test, not less 17876
than forty per cent of the questions on the test that are used to 17877
compute a student's score shall be a public record. The department 17878
shall determine which questions will be needed for reuse on a 17879
future test and those questions shall not be public records and 17880
shall be redacted from the test prior to its release as a public 17881
record. 17882

(5) Each test prescribed by division (B) of section 3301.0710 17883
of the Revised Code that is administered in the spring shall be a 17884
public record. Each test prescribed by that division that is 17885
administered in the fall or summer shall not be a public record. 17886

(0) As used in this section: 17887

(1) "Three-year average" means the average of the most recent 17888
consecutive three school years of data. 17889

(2) "Dropout" means a student who withdraws from school 17890
before completing course requirements for graduation and who is 17891
not enrolled in an education program approved by the state board 17892
of education or an education program outside the state. "Dropout" 17893
does not include a student who has departed the country. 17894

(3) "Graduation rate" means the ratio of students receiving a 17895
diploma to the number of students who entered ninth grade four 17896
years earlier. Students who transfer into the district are added 17897
to the calculation. Students who transfer out of the district for 17898
reasons other than dropout are subtracted from the calculation. If 17899
a student who was a dropout in any previous year returns to the 17900
same school district, that student shall be entered into the 17901
calculation as if the student had entered ninth grade four years 17902
before the graduation year of the graduating class that the 17903
student joins. 17904

Sec. 3301.0714. (A) The state board of education shall adopt 17905
rules for a statewide education management information system. The 17906
rules shall require the state board to establish guidelines for 17907
the establishment and maintenance of the system in accordance with 17908
this section and the rules adopted under this section. The 17909
guidelines shall include: 17910

(1) Standards identifying and defining the types of data in 17911
the system in accordance with divisions (B) and (C) of this 17912
section; 17913

(2) Procedures for annually collecting and reporting the data 17914
to the state board in accordance with division (D) of this 17915
section; 17916

(3) Procedures for annually compiling the data in accordance 17917

with division (G) of this section; 17918

(4) Procedures for annually reporting the data to the public 17919
in accordance with division (H) of this section. 17920

(B) The guidelines adopted under this section shall require 17921
the data maintained in the education management information system 17922
to include at least the following: 17923

(1) Student participation and performance data, for each 17924
grade in each school district as a whole and for each grade in 17925
each school building in each school district, that includes: 17926

(a) The numbers of students receiving each category of 17927
instructional service offered by the school district, such as 17928
regular education instruction, vocational education instruction, 17929
specialized instruction programs or enrichment instruction that is 17930
part of the educational curriculum, instruction for gifted 17931
students, instruction for handicapped students, and remedial 17932
instruction. The guidelines shall require instructional services 17933
under this division to be divided into discrete categories if an 17934
instructional service is limited to a specific subject, a specific 17935
type of student, or both, such as regular instructional services 17936
in mathematics, remedial reading instructional services, 17937
instructional services specifically for students gifted in 17938
mathematics or some other subject area, or instructional services 17939
for students with a specific type of handicap. The categories of 17940
instructional services required by the guidelines under this 17941
division shall be the same as the categories of instructional 17942
services used in determining cost units pursuant to division 17943
(C)(3) of this section. 17944

(b) The numbers of students receiving support or 17945
extracurricular services for each of the support services or 17946
extracurricular programs offered by the school district, such as 17947
counseling services, health services, and extracurricular sports 17948

and fine arts programs. The categories of services required by the	17949
guidelines under this division shall be the same as the categories	17950
of services used in determining cost units pursuant to division	17951
(C)(4)(a) of this section.	17952
(c) Average student grades in each subject in grades nine	17953
through twelve;	17954
(d) Academic achievement levels as assessed by the testing of	17955
student achievement under sections 3301.0710 and 3301.0711 of the	17956
Revised Code;	17957
(e) The number of students designated as having a	17958
handicapping condition pursuant to division (C)(1) of section	17959
3301.0711 of the Revised Code;	17960
(f) The numbers of students reported to the state board	17961
pursuant to division (C)(2) of section 3301.0711 of the Revised	17962
Code;	17963
(g) Attendance rates and the average daily attendance for the	17964
year. For purposes of this division, a student shall be counted as	17965
present for any field trip that is approved by the school	17966
administration.	17967
(h) Expulsion rates;	17968
(i) Suspension rates;	17969
(j) The percentage of students receiving corporal punishment;	17970
(k) Dropout rates;	17971
(l) Rates of retention in grade;	17972
(m) For pupils in grades nine through twelve, the average	17973
number of carnegie units, as calculated in accordance with state	17974
board of education rules;	17975
(n) Graduation rates, to be calculated in a manner specified	17976
by the department of education that reflects the rate at which	17977

students who were in the ninth grade three years prior to the 17978
current year complete school and that is consistent with 17979
nationally accepted reporting requirements; 17980

(o) Results of diagnostic assessments administered to 17981
kindergarten students as required under section 3301.0715 of the 17982
Revised Code to permit a comparison of the academic readiness of 17983
kindergarten students. However, no district shall be required to 17984
report to the department the results of any diagnostic assessment 17985
administered to a kindergarten student if the parent of that 17986
student requests the district not to report those results. 17987

(2) Personnel and classroom enrollment data for each school 17988
district, including: 17989

(a) The total numbers of licensed employees and nonlicensed 17990
employees and the numbers of full-time equivalent licensed 17991
employees and nonlicensed employees providing each category of 17992
instructional service, instructional support service, and 17993
administrative support service used pursuant to division (C)(3) of 17994
this section. The guidelines adopted under this section shall 17995
require these categories of data to be maintained for the school 17996
district as a whole and, wherever applicable, for each grade in 17997
the school district as a whole, for each school building as a 17998
whole, and for each grade in each school building. 17999

(b) The total number of employees and the number of full-time 18000
equivalent employees providing each category of service used 18001
pursuant to divisions (C)(4)(a) and (b) of this section, and the 18002
total numbers of licensed employees and nonlicensed employees and 18003
the numbers of full-time equivalent licensed employees and 18004
nonlicensed employees providing each category used pursuant to 18005
division (C)(4)(c) of this section. The guidelines adopted under 18006
this section shall require these categories of data to be 18007
maintained for the school district as a whole and, wherever 18008

applicable, for each grade in the school district as a whole, for 18009
each school building as a whole, and for each grade in each school 18010
building. 18011

(c) The total number of regular classroom teachers teaching 18012
classes of regular education and the average number of pupils 18013
enrolled in each such class, in each of grades kindergarten 18014
through five in the district as a whole and in each school 18015
building in the school district. 18016

(d) The number of master teachers employed by each school 18017
district and each school building, once a definition of master 18018
teacher has been developed by the educator standards board 18019
pursuant to section 3319.61 of the Revised Code. 18020

(3)(a) Student demographic data for each school district, 18021
including information regarding the gender ratio of the school 18022
district's pupils, the racial make-up of the school district's 18023
pupils, the number of limited English proficient students in the 18024
district, and an appropriate measure of the number of the school 18025
district's pupils who reside in economically disadvantaged 18026
households. The demographic data shall be collected in a manner to 18027
allow correlation with data collected under division (B)(1) of 18028
this section. Categories for data collected pursuant to division 18029
(B)(3) of this section shall conform, where appropriate, to 18030
standard practices of agencies of the federal government. 18031

(b) With respect to each student entering kindergarten, 18032
whether the student previously participated in a public preschool 18033
program, a private preschool program, or a head start program, and 18034
the number of years the student participated in each of these 18035
programs. 18036

(4) Any data required to be collected pursuant to federal 18037
law. 18038

(C) The education management information system shall include 18039

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:

(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.

(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.

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

(a) The cost of each instructional services category required 18071
by guidelines adopted under division (B)(1)(a) of this section 18072
that is provided directly to students by a classroom teacher; 18073

(b) The cost of the instructional support services, such as 18074
services provided by a speech-language pathologist, classroom 18075
aide, multimedia aide, or librarian, provided directly to students 18076
in conjunction with each instructional services category; 18077

(c) The cost of the administrative support services related 18078
to each instructional services category, such as the cost of 18079
personnel that develop the curriculum for the instructional 18080
services category and the cost of personnel supervising or 18081
coordinating the delivery of the instructional services category. 18082

(4) Support or extracurricular services costs for each 18083
category of service directly provided to students and required by 18084
guidelines adopted pursuant to division (B)(1)(b) of this section. 18085
The guidelines shall require the cost units under division (C)(4) 18086
of this section to be designed so that each of them may be 18087
compiled and reported in terms of average expenditure per pupil 18088
receiving the service in the school district as a whole and 18089
average expenditure per pupil receiving the service in each 18090
building in the school district and in terms of a total cost for 18091
each category of service and, as a breakdown of the total cost, a 18092
cost for each of the following components: 18093

(a) The cost of each support or extracurricular services 18094
category required by guidelines adopted under division (B)(1)(b) 18095
of this section that is provided directly to students by a 18096
licensed employee, such as services provided by a guidance 18097
counselor or any services provided by a licensed employee under a 18098
supplemental contract; 18099

(b) The cost of each such services category provided directly 18100
to students by a nonlicensed employee, such as janitorial 18101

services, cafeteria services, or services of a sports trainer; 18102

(c) The cost of the administrative services related to each 18103
services category in division (C)(4)(a) or (b) of this section, 18104
such as the cost of any licensed or nonlicensed employees that 18105
develop, supervise, coordinate, or otherwise are involved in 18106
administering or aiding the delivery of each services category. 18107

(D)(1) The guidelines adopted under this section shall 18108
require school districts to collect information about individual 18109
students, staff members, or both in connection with any data 18110
required by division (B) or (C) of this section or other reporting 18111
requirements established in the Revised Code. The guidelines may 18112
also require school districts to report information about 18113
individual staff members in connection with any data required by 18114
division (B) or (C) of this section or other reporting 18115
requirements established in the Revised Code. The guidelines shall 18116
not authorize school districts to request social security numbers 18117
of individual students. The guidelines shall prohibit the 18118
reporting under this section of a student's name, address, and 18119
social security number to the state board of education or the 18120
department of education. The guidelines shall also prohibit the 18121
reporting under this section of any personally identifiable 18122
information about any student, except for the purpose of assigning 18123
the data verification code required by division (D)(2) of this 18124
section, to any other person unless such person is employed by the 18125
school district or the data acquisition site operated under 18126
section 3301.075 of the Revised Code and is authorized by the 18127
district or acquisition site to have access to such information or 18128
is employed by an entity with which the department contracts for 18129
the scoring of tests administered under section 3301.0711 or 18130
3301.0712 of the Revised Code. The guidelines may require school 18131
districts to provide the social security numbers of individual 18132
staff members. 18133

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

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

Each school district shall ensure that the data verification code is included in the student's records reported to any subsequent school district or community school in which the student enrolls. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

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

(F) Beginning with the school year that begins July 1, 1991,

the board of education of each school district shall annually
collect and report to the state board, in accordance with the
guidelines established by the board, the data required pursuant to
this section. A school district may collect and report these data
notwithstanding section 2151.358 or 3319.321 of the Revised Code.

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

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

(2) Present the data on academic achievement levels as
assessed by the testing of student achievement maintained pursuant
to division (B)(1)(d) of this section.

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

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

(3) Copies of the reports received from the state board under 18196
divisions (H)(1) and (2) of this section shall be made available 18197
to the general public at each school district's offices. Each 18198
district board of education shall make copies of each report 18199
available to any person upon request and payment of a reasonable 18200
fee for the cost of reproducing the report. The board shall 18201
annually publish in a newspaper of general circulation in the 18202
school district, at least twice during the two weeks prior to the 18203
week in which the reports will first be available, a notice 18204
containing the address where the reports are available and the 18205
date on which the reports will be available. 18206

(I) Any data that is collected or maintained pursuant to this 18207
section and that identifies an individual pupil is not a public 18208
record for the purposes of section 149.43 of the Revised Code. 18209

(J) As used in this section: 18210

(1) "School district" means any city, local, exempted 18211
village, or joint vocational school district. 18212

(2) "Cost" means any expenditure for operating expenses made 18213
by a school district excluding any expenditures for debt 18214
retirement except for payments made to any commercial lending 18215
institution for any loan approved pursuant to section 3313.483 of 18216
the Revised Code. 18217

(K) Any person who removes data from the information system 18218
established under this section for the purpose of releasing it to 18219
any person not entitled under law to have access to such 18220
information is subject to section 2913.42 of the Revised Code 18221
prohibiting tampering with data. 18222

(L) Any time the department of education determines that a 18223
school district has taken any of the actions described under 18224
division (L)(1), (2), or (3) of this section, it shall make a 18225
report of the actions of the district, send a copy of the report 18226

to the superintendent of such school district, and maintain a copy 18227
of the report in its files: 18228

(1) The school district fails to meet any deadline 18229
established pursuant to this section for the reporting of any data 18230
to the education management information system; 18231

(2) The school district fails to meet any deadline 18232
established pursuant to this section for the correction of any 18233
data reported to the education management information system; 18234

(3) The school district reports data to the education 18235
management information system in a condition, as determined by the 18236
department, that indicates that the district did not make a good 18237
faith effort in reporting the data to the system. 18238

Any report made under this division shall include 18239
recommendations for corrective action by the school district. 18240

Upon making a report for the first time in a fiscal year, the 18241
department shall withhold ten per cent of the total amount due 18242
during that fiscal year under Chapter 3317. of the Revised Code to 18243
the school district to which the report applies. Upon making a 18244
second report in a fiscal year, the department shall withhold an 18245
additional twenty per cent of such total amount due during that 18246
fiscal year to the school district to which the report applies. 18247
The department shall not release such funds unless it determines 18248
that the district has taken corrective action. However, no such 18249
release of funds shall occur if the district fails to take 18250
corrective action within forty-five days of the date upon which 18251
the report was made by the department. 18252

(M) No data acquisition site or school district shall 18253
acquire, change, or update its student administration software 18254
package to manage and report data required to be reported to the 18255
department unless it converts to a student software package that 18256
is certified by the department. 18257

(N) The state board of education, in accordance with sections 18258
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 18259
license as defined under division (A) of section 3319.31 of the 18260
Revised Code that has been issued to any school district employee 18261
found to have willfully reported erroneous, inaccurate, or 18262
incomplete data to the education management information system. 18263

(O) No person shall release or maintain any information about 18264
any student in violation of this section. Whoever violates this 18265
division is guilty of a misdemeanor of the fourth degree. 18266

(P) The department shall disaggregate the data collected 18267
under division (B)(1)(o) of this section according to the race and 18268
socioeconomic status of the students assessed. No data collected 18269
under that division shall be included on the report cards required 18270
by section 3302.03 of the Revised Code. 18271

(Q) If the department cannot compile any of the information 18272
required by division (C)(5) of section 3302.03 of the Revised Code 18273
based upon the data collected under this section, the department 18274
shall develop a plan and a reasonable timeline for the collection 18275
of any data necessary to comply with that division. 18276

Sec. 3301.0715. (A) Except as provided in division (E) of 18277
this section, the board of education of each city, local, and 18278
exempted village school district shall administer each applicable 18279
diagnostic assessment developed and provided to the district in 18280
accordance with section 3301.079 of the Revised Code to the 18281
following: 18282

(1) Each student enrolled in a building subject to division 18283
(E) of section 3302.04 of the Revised Code; 18284

(2) Any student who transfers into the district or to a 18285
different school within the district if each applicable diagnostic 18286
assessment was not administered by the district or school the 18287

student previously attended in the current school year, within 18288
thirty days after the date of transfer. If the district or school 18289
into which the student transfers cannot determine whether the 18290
student has taken any applicable diagnostic assessment in the 18291
current school year, the district or school may administer the 18292
diagnostic assessment to the student. 18293

(3) Each kindergarten student, not later than six weeks after 18294
the first day of school. For the purpose of division (A)(3) of 18295
this section, the district shall administer the kindergarten 18296
readiness assessment provided by the department of education. The 18297
district may administer the readiness assessment to a student 18298
prior to the student's enrollment in kindergarten, but in no case 18299
shall the results of the readiness assessment be used to prohibit 18300
the student from enrolling in kindergarten. 18301

(4) Each student enrolled in first or second grade. 18302

(B) Each district board shall administer each diagnostic 18303
assessment as the board deems appropriate. However, the board 18304
shall administer any diagnostic assessment at least once annually 18305
to all students in the appropriate grade level. A district board 18306
may administer any diagnostic assessment in the fall and spring of 18307
a school year to measure the amount of academic growth 18308
attributable to the instruction received by students during that 18309
school year. 18310

(C) Each district board shall utilize and score any 18311
diagnostic assessment administered under division (A) of this 18312
section in accordance with rules established by the department. 18313
Except as required by division (B)(1)(o) of section 3301.0714 of 18314
the Revised Code, neither the state board of education nor the 18315
department shall require school districts to report the results of 18316
diagnostic assessments for any students to the department or to 18317
make any such results available in any form to the public. After 18318

the administration of any diagnostic assessment, each district
shall provide a student's completed diagnostic assessment, the
results of such assessment, and any other accompanying documents
used during the administration of the assessment to the parent of
that student upon the parent's request.

(D) Each district board shall provide intervention services
to students whose diagnostic assessments show that they are
failing to make satisfactory progress toward attaining the
academic standards for their grade level.

(E) Any district that made adequate yearly progress, as
defined in section 3302.01 of the Revised Code, in the immediately
preceding school year may assess student progress in grades one
through ~~eight~~ three using a diagnostic assessment other than the
diagnostic assessment required by division (A) of this section.

(F) A district board may administer ~~any~~ the third grade
writing diagnostic assessment provided to the district in
accordance with section 3301.079 of the Revised Code to any
student enrolled in a building that is not subject to division
(A)(1) of this section. Any district electing to administer the
diagnostic ~~assessments~~ assessment to students under this division
shall provide intervention services to any such student whose
diagnostic assessment shows unsatisfactory progress toward
attaining the academic standards for the student's grade level.

Sec. 3301.12. (A) The superintendent of public instruction in
addition to the authority otherwise imposed on ~~him~~ the
superintendent, shall perform the following duties:

(1) ~~He~~ The superintendent shall provide technical and
professional assistance and advice to all school districts in
reference to all aspects of education, including finance,
buildings and equipment, administration, organization of school

districts, curriculum and instruction, transportation of pupils, 18349
personnel problems, and the interpretation of school laws and 18350
state regulations. 18351

(2) ~~He~~ The superintendent shall prescribe and require the 18352
preparation and filing of such financial and other reports from 18353
school districts, officers, and employees as are necessary or 18354
proper. ~~He~~ The superintendent shall prescribe and require the 18355
installation by school districts of such standardized reporting 18356
forms and accounting procedures as are essential to the 18357
businesslike operations of the public schools of the state. 18358

(3) ~~He~~ The superintendent shall conduct such studies and 18359
research projects as are necessary or desirable for the 18360
improvement of public school education in Ohio, and such as may be 18361
assigned to ~~him~~ the superintendent by the state board of 18362
education. Such studies and projects may include analysis of data 18363
contained in the education management information system 18364
established under section 3301.0714 of the Revised Code. For any 18365
study or project that requires the analysis of individual student 18366
data, the department of education or any entity with which the 18367
superintendent or department contracts to conduct the study or 18368
project shall maintain the confidentiality of student data at all 18369
times. For this purpose, the department or contracting entity 18370
shall use the data verification code assigned pursuant to division 18371
(D)(2) of section 3301.0714 of the Revised Code for each student 18372
whose data is analyzed. Except as otherwise provided in division 18373
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 18374
the superintendent, the department, the state board of education, 18375
or any entity conducting a study or research project on the 18376
superintendent's behalf have access to a student's name, address, 18377
or social security number while analyzing individual student data. 18378

(4) ~~He~~ The superintendent shall prepare and submit annually 18379
to the state board of education a report of the activities of the 18380

department of education and the status, problems, and needs of 18381
education in the state of Ohio. 18382

(5) ~~He~~ The superintendent shall supervise all agencies over 18383
which the board exercises administrative control, including 18384
schools for education of handicapped persons. 18385

(B) The superintendent of public instruction may annually 18386
inspect and analyze the expenditures of each school district and 18387
make a determination as to the efficiency of each district's 18388
costs, relative to other school districts in the state, for 18389
instructional, administrative, and student support services. The 18390
superintendent shall notify each school district as to the nature 18391
of, and reasons for, ~~his~~ the determination. The state board of 18392
education shall adopt rules in accordance with Chapter 119. of the 18393
Revised Code setting forth the procedures and standards for the 18394
performance of the inspection and analysis. 18395

Sec. 3301.16. Pursuant to standards prescribed by the state 18396
board of education as provided in division (D) of section 3301.07 18397
of the Revised Code, the state board shall classify and charter 18398
school districts and individual schools within each district 18399
except that no charter shall be granted to a nonpublic school 18400
unless pursuant to division (K) of section 3301.0711 of the 18401
Revised Code the school elects to administer the tests prescribed 18402
by division (B) of section 3301.0710 of the Revised Code beginning 18403
July 1, 1995. ~~The~~ 18404

In the course of considering the charter of a new school 18405
district created under section 3311.26 or 3311.38 of the Revised 18406
Code, the state board shall require the party proposing creation 18407
of the district to submit to the board a map, certified by the 18408
county auditor of the county in which the proposed new district is 18409
located, showing the boundaries of the proposed new district. In 18410
the case of a proposed new district located in more than one 18411

county, the map shall be certified by the county auditor of each 18412
county in which the proposed district is located. 18413

The state board shall revoke the charter of any school 18414
district or school which fails to meet the standards for 18415
elementary and high schools as prescribed by the board. The state 18416
board shall also revoke the charter of any nonpublic school that 18417
does not comply with section 3313.612 of the Revised Code or, on 18418
or after July 1, 1995, does not participate in the testing program 18419
prescribed by division (B) of section 3301.0710 of the Revised 18420
Code. ~~In~~ 18421

In the issuance and revocation of school district or school 18422
charters, the state board shall be governed by the provisions of 18423
Chapter 119. of the Revised Code. 18424

No school district, or individual school operated by a school 18425
district, shall operate without a charter issued by the state 18426
board under this section. 18427

In case a school district charter is revoked pursuant to this 18428
section, the state board may dissolve the school district and 18429
transfer its territory to one or more adjacent districts. An 18430
equitable division of the funds, property, and indebtedness of the 18431
school district shall be made by the state board among the 18432
receiving districts. The board of education of a receiving 18433
district shall accept such territory pursuant to the order of the 18434
state board. Prior to dissolving the school district, the state 18435
board shall notify the appropriate educational service center 18436
governing board and all adjacent school district boards of 18437
education of its intention to do so. Boards so notified may make 18438
recommendations to the state board regarding the proposed 18439
dissolution and subsequent transfer of territory. Except as 18440
provided in section 3301.161 of the Revised Code, the transfer 18441
ordered by the state board shall become effective on the date 18442

specified by the state board, but the date shall be at least 18443
thirty days following the date of issuance of the order. 18444

A high school is one of higher grade than an elementary 18445
school, in which instruction and training are given in accordance 18446
with sections 3301.07 and 3313.60 of the Revised Code and which 18447
also offers other subjects of study more advanced than those 18448
taught in the elementary schools and such other subjects as may be 18449
approved by the state board of education. 18450

An elementary school is one in which instruction and training 18451
are given in accordance with sections 3301.07 and 3313.60 of the 18452
Revised Code and which offers such other subjects as may be 18453
approved by the state board of education. In districts wherein a 18454
junior high school is maintained, the elementary schools in that 18455
district may be considered to include only the work of the first 18456
six school years inclusive, plus the kindergarten year. 18457

Sec. 3301.311. (A) As used in this section, "preschool 18458
program" and "school child program" have the same meanings as in 18459
section 3301.52 of the Revised Code. 18460

(B) After June 30, 2001 July 1, 2005, no head start preschool 18461
program, school child program, or early learning program, as 18462
defined by the department of education, shall receive any funds 18463
from the state unless fifty per cent of the staff members employed 18464
by that program as teachers are working toward an associate degree 18465
of a type approved by the department of education. ~~After June 30,~~ 18466
~~2003, no head start program shall receive any funds from the state~~ 18467
~~unless each staff member employed by that program as a teacher is~~ 18468
~~working toward an associate degree of a type approved by the~~ 18469
~~department of education.~~ Beginning in fiscal year 2008, no head 18470
start preschool program, school child program, or early learning 18471
program, shall receive any funds from the state unless every staff 18472
member employed by that program as a teacher has attained such a 18473

degree. 18474

Sec. 3301.32. (A)(1) The chief administrator of any head 18475
start agency shall request the superintendent of the bureau of 18476
criminal identification and investigation to conduct a criminal 18477
records check with respect to any applicant who has applied to the 18478
head start agency for employment as a person responsible for the 18479
care, custody, or control of a child. If the applicant does not 18480
present proof that the applicant has been a resident of this state 18481
for the five-year period immediately prior to the date upon which 18482
the criminal records check is requested or does not provide 18483
evidence that within that five-year period the superintendent has 18484
requested information about the applicant from the federal bureau 18485
of investigation in a criminal records check, the chief 18486
administrator shall request that the superintendent obtain 18487
information from the federal bureau of investigation as a part of 18488
the criminal records check for the applicant. If the applicant 18489
presents proof that the applicant has been a resident of this 18490
state for that five-year period, the chief administrator may 18491
request that the superintendent include information from the 18492
federal bureau of investigation in the criminal records check. 18493

(2) Any person required by division (A)(1) of this section to 18494
request a criminal records check shall provide to each applicant a 18495
copy of the form prescribed pursuant to division (C)(1) of section 18496
109.572 of the Revised Code, provide to each applicant a standard 18497
impression sheet to obtain fingerprint impressions prescribed 18498
pursuant to division (C)(2) of section 109.572 of the Revised 18499
Code, obtain the completed form and impression sheet from each 18500
applicant, and forward the completed form and impression sheet to 18501
the superintendent of the bureau of criminal identification and 18502
investigation at the time the chief administrator requests a 18503
criminal records check pursuant to division (A)(1) of this 18504
section. 18505

(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, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to

that date, a violation of section 2925.11 of the Revised Code that 18538
is not a minor drug possession offense, or felonious sexual 18539
penetration in violation of former section 2907.12 of the Revised 18540
Code; 18541

(b) A violation of an existing or former law of this state, 18542
any other state, or the United States that is substantially 18543
equivalent to any of the offenses or violations described in 18544
division (B)(1)(a) of this section. 18545

(2) A head start agency may employ an applicant conditionally 18546
until the criminal records check required by this section is 18547
completed and the agency receives the results of the criminal 18548
records check. If the results of the criminal records check 18549
indicate that, pursuant to division (B)(1) of this section, the 18550
applicant does not qualify for employment, the agency shall 18551
release the applicant from employment. 18552

(C)(1) Each head start agency shall pay to the bureau of 18553
criminal identification and investigation the fee prescribed 18554
pursuant to division (C)(3) of section 109.572 of the Revised Code 18555
for each criminal records check conducted in accordance with that 18556
section upon the request pursuant to division (A)(1) of this 18557
section of the chief administrator of the head start agency. 18558

(2) A head start agency may charge an applicant a fee for the 18559
costs it incurs in obtaining a criminal records check under this 18560
section. A fee charged under this division shall not exceed the 18561
amount of fees the agency pays under division (C)(1) of this 18562
section. If a fee is charged under this division, the agency shall 18563
notify the applicant at the time of the applicant's initial 18564
application for employment of the amount of the fee and that, 18565
unless the fee is paid, the head start agency will not consider 18566
the applicant for employment. 18567

(D) The report of any criminal records check conducted by the 18568

bureau of criminal identification and investigation in accordance 18569
with section 109.572 of the Revised Code and pursuant to a request 18570
made under division (A)(1) of this section is not a public record 18571
for the purposes of section 149.43 of the Revised Code and shall 18572
not be made available to any person other than the applicant who 18573
is the subject of the criminal records check or the applicant's 18574
representative, the head start agency requesting the criminal 18575
records check or its representative, and any court, hearing 18576
officer, or other necessary individual involved in a case dealing 18577
with the denial of employment to the applicant. 18578

(E) The director of job and family services shall adopt rules 18579
pursuant to Chapter 119. of the Revised Code to implement this 18580
section, including rules specifying circumstances under which a 18581
head start agency may hire a person who has been convicted of an 18582
offense listed in division (B)(1) of this section but who meets 18583
standards in regard to rehabilitation set by the director. 18584

(F) Any person required by division (A)(1) of this section to 18585
request a criminal records check shall inform each person, at the 18586
time of the person's initial application for employment, that the 18587
person is required to provide a set of impressions of the person's 18588
fingerprints and that a criminal records check is required to be 18589
conducted and satisfactorily completed in accordance with section 18590
109.572 of the Revised Code if the person comes under final 18591
consideration for appointment or employment as a precondition to 18592
employment for that position. 18593

(G) As used in this section: 18594

(1) "Applicant" means a person who is under final 18595
consideration for appointment or employment in a position with a 18596
head start agency as a person responsible for the care, custody, 18597
or control of a child. 18598

(2) "Head start agency" ~~has the same meaning as in section~~ 18599

~~3301.31 of the Revised Code~~ means an entity in this state that has 18600
been approved to be an agency for purposes of the "Head Start 18601
Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended. 18602

(3) "Criminal records check" has the same meaning as in 18603
section 109.572 of the Revised Code. 18604

(4) "Minor drug possession offense" has the same meaning as 18605
in section 2925.01 of the Revised Code. 18606

Sec. 3301.86. ~~The OhioReads classroom reading improvement~~ 18607
~~grants program is hereby established. The OhioReads council shall~~ 18608
~~award grants under the program in accordance with the standards it~~ 18609
~~establishes under section 3301.91 of the Revised Code. The~~ 18610
~~OhioReads office is the fiscal agent for the program and shall pay~~ 18611
~~the grants awarded by the council~~ Under the program, the 18612
department of education shall award reading intervention grants to 18613
public schools and classrooms operated by city, local, and 18614
exempted village school districts, by community schools, and by 18615
educational service centers. The grants shall be used to fund the 18616
engagement of volunteers to assist struggling students in grades 18617
kindergarten through twelve improve their reading skills, to 18618
improve reading outcomes in low-performing schools, and to 18619
facilitate closing the achievement gap between students of 18620
different subgroups. 18621

Sec. 3301.88. (A) A recipient of a grant under section 18622
3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by~~ 18623
~~the OhioReads council~~ may request from the bureau of criminal 18624
identification and investigation a criminal records check on any 18625
individual, other than an individual described in division (B) of 18626
this section, who applies to participate in providing directly to 18627
children any program or service ~~through an entity approved by the~~ 18628
~~OhioReads council or~~ funded in whole or in part by the grant. If a 18629

recipient ~~or an entity approved by the OhioReads council~~ elects to 18630
request a criminal records check, the request shall consist of a 18631
request for the information a school district board of education 18632
may request under division (F)(2)(a) of section 109.57 of the 18633
Revised Code and shall be accompanied by one of the following 18634
identification options: 18635

(1) The form and standard impression sheet prescribed by the 18636
bureau under division (C) of section 109.572 of the Revised Code; 18637

(2) A form prescribed by the bureau on which is specified the 18638
individual's name, social security number, and date of birth. 18639

(B) A grant recipient ~~or an entity approved by the OhioReads~~ 18640
~~council~~ shall not request a criminal records check under division 18641
(A) of this section with respect to any individual who furnishes 18642
the grant recipient ~~or an entity approved by the OhioReads council~~ 18643
with a certified copy of a report of a criminal records check 18644
completed by the bureau within one year prior to applying to 18645
participate in providing programs or services ~~through an entity~~ 18646
~~approved by the OhioReads council or under an OhioReads~~ the grant. 18647

(C) Except as provided in rules adopted under division (G)(2) 18648
of this section, a grant recipient ~~or an entity approved by the~~ 18649
~~OhioReads council~~ shall not allow an individual to participate in 18650
providing directly to children any program or service ~~through an~~ 18651
~~entity approved by the OhioReads council or~~ funded in whole or in 18652
part by the grant if the information requested under this section 18653
from the bureau indicates that the individual has ever pleaded 18654
guilty to or been found guilty by a jury or court of any of the 18655
following: 18656

(1) A felony; 18657

(2) A violation of section 2903.16, 2903.34, 2905.05, 18658
2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25, 18659
2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the 18660

Revised Code; a violation of section 2905.04 of the Revised Code 18661
as it existed prior to July 1, 1996; or a violation of section 18662
2919.23 of the Revised Code that would have been a violation of 18663
section 2905.04 of the Revised Code as it existed prior to July 1, 18664
1996, had it been committed prior to that date; 18665

(3) An offense of violence; 18666

(4) A theft offense, as defined in section 2913.01 of the 18667
Revised Code; 18668

(5) A drug abuse offense, as defined in section 2925.01 of 18669
the Revised Code; 18670

(6) A violation of an existing or former ordinance of a 18671
municipal corporation or law of the United States or another state 18672
that is substantively comparable to an offense listed in divisions 18673
(C)(1) to (5) of this section. 18674

(D) A grant recipient ~~or an entity approved by the OhioReads~~ 18675
~~council~~ that elects to request criminal records checks may 18676
conditionally allow an individual to participate in providing 18677
programs or services directly to children until the criminal 18678
records check is completed and the grant recipient ~~or an entity~~ 18679
~~approved by the OhioReads council~~ receives the results. If the 18680
results of the criminal records check indicate that the individual 18681
has been convicted of or pleaded guilty to an offense listed in 18682
division (C) of this section, the grant recipient ~~or an entity~~ 18683
~~approved by the OhioReads council~~ shall not allow the individual 18684
to further participate in providing directly to children any 18685
program or service ~~through an entity approved by the OhioReads~~ 18686
~~council~~ ~~or~~ funded in whole or in part by the grant, except as 18687
provided in the rules adopted under division (G)(2) of this 18688
section. 18689

(E) The report of any criminal records check conducted in 18690
accordance with division (F)(5) of section 109.57 of the Revised 18691

Code pursuant to a request under this section is not a public 18692
record for purposes of section 149.43 of the Revised Code. The 18693
report shall not be made available to any person other than the 18694
individual who is the subject of the criminal records check or the 18695
individual's representative, the grant recipient or the grant 18696
recipient's representative ~~or an entity approved by the OhioReads~~ 18697
~~council~~, and any court, hearing officer, or other necessary 18698
individual in a case dealing with the denial of the individual's 18699
participation in a program or service ~~through an entity approved~~ 18700
~~by the OhioReads council or funded by an OhioReads~~ a grant awarded 18701
under section 3301.86 of the Revised Code. 18702

(F) The ~~OhioReads office~~ department of education shall 18703
reimburse each grant recipient ~~or an entity approved by the~~ 18704
~~OhioReads council~~ for each criminal records check the actual 18705
amount paid by the grant recipient ~~or an entity approved by the~~ 18706
~~OhioReads council~~ for the portion of the criminal records check 18707
conducted by the bureau of criminal identification and 18708
investigation. Reimbursement shall be paid under this division 18709
only for criminal records checks on individuals who apply to 18710
participate in providing directly to children any program or 18711
service ~~through an entity approved by the OhioReads council or~~ 18712
funded in whole or in part by the grant. To receive it, the grant 18713
recipient ~~or an entity approved by the OhioReads council~~ must 18714
submit information to the ~~office~~ department in the form and manner 18715
required by the ~~office~~ department. The reimbursement is in 18716
addition to the grant awarded to the recipient under section 18717
3301.86 ~~or 3301.87~~ of the Revised Code. 18718

(G) The ~~department~~ state board of education shall adopt rules 18719
in accordance with Chapter 119. of the Revised Code: 18720

(1) Prescribing the form and manner in which grant recipients 18721
~~or an entity approved by the OhioReads council~~ must submit 18722
information to the ~~OhioReads office~~ department to receive 18723

reimbursement under division (F) of this section; 18724

(2) Specifying circumstances under which a grant recipient ~~or~~ 18725
~~an entity approved by the OhioReads council~~ may allow an 18726
individual whose criminal records check report indicates that the 18727
individual has been convicted of or pleaded guilty to an offense 18728
listed in division (C) of this section, but who meets standards in 18729
regard to rehabilitation set forth in the rules, to participate in 18730
providing directly to children any program or service ~~through an~~ 18731
~~entity approved by the OhioReads council or~~ funded in whole or in 18732
part by the grant. 18733

Sec. 3302.03. (A) Annually the department of education shall 18734
report for each school district and each school building in a 18735
district all of the following: 18736

(1) The extent to which the school district or building meets 18737
each of the applicable performance indicators created by the state 18738
board of education under section 3302.02 of the Revised Code and 18739
the number of applicable performance indicators that have been 18740
achieved; 18741

(2) The performance index score of the school district or 18742
building; 18743

(3) Whether the school district or building has made adequate 18744
yearly progress; 18745

(4) Whether the school district or building is excellent, 18746
effective, needs continuous improvement, is under an academic 18747
watch, or is in a state of academic emergency. 18748

(B)(1) A school district or building shall be declared 18749
excellent if it fulfills one of the following requirements: 18750

(a) It makes adequate yearly progress and either meets at 18751
least ninety-four per cent of the applicable state performance 18752
indicators or has a performance index score established by the 18753

department. 18754

(b) It has failed to make adequate yearly progress for not 18755
more than two consecutive years and either meets at least 18756
ninety-four per cent of the applicable state performance 18757
indicators or has a performance index score established by the 18758
department. 18759

(2) A school district or building shall be declared effective 18760
if it fulfills one of the following requirements: 18761

(a) It makes adequate yearly progress and either meets at 18762
least seventy-five per cent but less than ninety-four per cent of 18763
the applicable state performance indicators or has a performance 18764
index score established by the department. 18765

(b) It does not make adequate yearly progress and either 18766
meets at least seventy-five per cent of the applicable state 18767
performance indicators or has a performance index score 18768
established by the department, except that if it does not make 18769
adequate yearly progress for three consecutive years, it shall be 18770
declared in need of continuous improvement. 18771

(3) A school district or building shall be declared to be in 18772
need of continuous improvement if it fulfills one of the following 18773
requirements: 18774

(a) It makes adequate yearly progress, meets less than 18775
seventy-five per cent of the applicable state performance 18776
indicators, and has a performance index score established by the 18777
department. 18778

(b) It does not make adequate yearly progress and either 18779
meets at least fifty per cent but less than seventy-five per cent 18780
of the applicable state performance indicators or has a 18781
performance index score established by the department. 18782

(4) A school district or building shall be declared to be 18783

under an academic watch if it does not make adequate yearly 18784
progress and either meets at least thirty-one per cent but less 18785
than fifty per cent of the applicable state performance indicators 18786
or has a performance index score established by the department. 18787

(5) A school district or building shall be declared to be in 18788
a state of academic emergency if it does not make adequate yearly 18789
progress, does not meet at least thirty-one per cent of the 18790
applicable state performance indicators, and has a performance 18791
index score established by the department. 18792

(C)(1) The department shall issue annual report cards for 18793
each school district, each building within each district, and for 18794
the state as a whole reflecting performance on the indicators 18795
created by the state board under section 3302.02 of the Revised 18796
Code, the performance index score, and adequate yearly progress. 18797

(2) The department shall include on the report card for each 18798
district information pertaining to any change from the previous 18799
year made by the school district or school buildings within the 18800
district on any performance indicator. 18801

(3) When reporting data on student performance, the 18802
department shall disaggregate that data according to the following 18803
categories: 18804

(a) Performance of students by age group; 18805

(b) Performance of students by race and ethnic group; 18806

(c) Performance of students by gender; 18807

(d) Performance of students grouped by those who have been 18808
enrolled in a district or school for three or more years; 18809

(e) Performance of students grouped by those who have been 18810
enrolled in a district or school for more than one year and less 18811
than three years; 18812

(f) Performance of students grouped by those who have been 18813

enrolled in a district or school for one year or less;	18814
(g) Performance of students grouped by those who are economically disadvantaged;	18815 18816
(h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;	18817 18818 18819
(i) Performance of students grouped by those who are classified as limited English proficient;	18820 18821
(j) Performance of students grouped by those who have disabilities;	18822 18823
(k) Performance of students grouped by those who are classified as migrants;	18824 18825
(l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.	18826 18827 18828
The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.	18829 18830 18831 18832 18833 18834
In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students.	18835 18836 18837 18838 18839 18840 18841
(4) The department may include with the report cards any additional education and fiscal performance data it deems	18842 18843

valuable. 18844

(5) The department shall include on each report card a list 18845
of additional information collected by the department that is 18846
available regarding the district or building for which the report 18847
card is issued. When available, such additional information shall 18848
include student mobility data disaggregated by race and 18849
socioeconomic status, college enrollment data, and the reports 18850
prepared under section 3302.031 of the Revised Code. 18851

The department shall maintain a site on the world wide web. 18852
The report card shall include the address of the site and shall 18853
specify that such additional information is available to the 18854
public at that site. The department shall also provide a copy of 18855
each item on the list to the superintendent of each school 18856
district. The district superintendent shall provide a copy of any 18857
item on the list to anyone who requests it. 18858

(6) ~~For~~ This division does not apply to conversion community 18859
schools that primarily enroll students between sixteen and 18860
twenty-two years of age who dropped out of high school or are at 18861
risk of dropping out of high school due to poor attendance, 18862
disciplinary problems, or suspensions. 18863

For any district that sponsors a conversion community school 18864
under Chapter 3314. of the Revised Code, the department shall 18865
combine data regarding the academic performance of students 18866
enrolled in the community school with comparable data from the 18867
schools of the district for the purpose of calculating the 18868
performance of the district as a whole on the report card issued 18869
for the district. 18870

(7) The department shall include on each report card the 18871
percentage of teachers in the district or building who are highly 18872
qualified, as defined by the "No Child Left Behind Act of 2001," 18873
and a comparison of that percentage with the percentages of such 18874

teachers in similar districts and buildings. 18875

(8) The department shall include on the report card the 18876
number of master teachers employed by each district and each 18877
building once the data is available from the education management 18878
information system established under section 3301.0714 of the 18879
Revised Code. 18880

(D)(1) In calculating reading, writing, mathematics, social 18881
studies, or science proficiency or achievement test passage rates 18882
used to determine school district or building performance under 18883
this section, the department shall include all students taking a 18884
test with accommodation or to whom an alternate assessment is 18885
administered pursuant to division (C)(1) or (3) of section 18886
3301.0711 of the Revised Code. 18887

(2) In calculating performance index scores, rates of 18888
achievement on the performance indicators established by the state 18889
board under section 3302.02 of the Revised Code, and adequate 18890
yearly progress for school districts and buildings under this 18891
section, the department shall do all of the following: 18892

(a) Include for each district or building only those students 18893
who are included in the ADM certified for the first full school 18894
week of October and are continuously enrolled in the district or 18895
building through the time of the spring administration of any test 18896
prescribed by section 3301.0710 of the Revised Code that is 18897
administered to the student's grade level; 18898

(b) Include cumulative totals from both the fall and spring 18899
administrations of the third grade reading achievement test; 18900

(c) Except as required by the "No Child Left Behind Act of 18901
2001" for the calculation of adequate yearly progress, exclude for 18902
each district or building any limited English proficient student 18903
who has been enrolled in United States schools for less than one 18904
full school year. 18905

Sec. 3302.10. (A) Beginning July 1, 2007, the superintendent of public instruction shall establish an academic distress commission for each school district that has been declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code and has failed to make adequate yearly progress for four or more consecutive school years. Each commission shall assist the district for which it was established in improving the district's academic performance.

(B) Each academic distress commission shall consist of five voting members, three of whom shall be appointed by the superintendent of public instruction and two of whom shall be appointed by the president of the board of education of the applicable school district.

(C) Each academic distress commission shall seek input from the district board of education regarding ways to improve the district's academic performance, but any decision of the commission related to any authority granted to the commission under this section shall be final.

The commission may do any of the following:

(1) Appoint school building administrators and reassign administrative personnel;

(2) Terminate the contracts of administrators or administrative personnel. The commission shall not be required to comply with section 3319.16 of the Revised Code with respect to any contract terminated under this division.

(3) Contract with a private entity to perform school or district management functions;

(4) Establish a budget for the district and approve district expenditures, unless a financial planning and supervision commission has been established for the district pursuant to

<u>section 3316.05 of the Revised Code.</u>	18936
<u>(D) If the board of education of a district for which an academic distress commission has been established under this section renews any collective bargaining agreement under Chapter 4117. of the Revised Code during the existence of the commission, the district board shall not enter into any agreement that would render any decision of the commission unenforceable. Section 3302.08 of the Revised Code does not apply to this division.</u>	18937 18938 18939 18940 18941 18942 18943
<u>(E) An academic distress commission shall cease to exist when the district for which it was established receives a performance rating under section 3302.03 of the Revised Code of in need of continuous improvement or better for two out of three school years; however, the superintendent of public instruction may dissolve the commission earlier if the superintendent determines that the district can perform adequately without the supervision of the commission.</u>	18944 18945 18946 18947 18948 18949 18950 18951
<u>Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the Revised Code:</u>	18952 18953
<u>(A) An "eligible student" is a student who satisfies the conditions specified in section 3310.03 of the Revised Code.</u>	18954 18955
<u>(B) "Parent" has the same meaning as in section 3313.98 of the Revised Code.</u>	18956 18957
<u>(C) "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.</u>	18958 18959 18960
<u>(D) "School year" has the same meaning as in section 3313.62 of the Revised Code.</u>	18961 18962
<u>Sec. 3310.02. The educational choice scholarship pilot program is hereby established. Under the program, the department</u>	18963 18964

of education annually shall pay scholarships to attend chartered 18965
nonpublic schools in accordance with section 3310.08 of the 18966
Revised Code for up to the number of eligible students prescribed 18967
by the general assembly. If the number of students who apply for a 18968
scholarship exceeds the number prescribed by the general assembly, 18969
the department first shall award scholarships to eligible students 18970
who received scholarships in the prior school year, and then shall 18971
give priority to eligible students with family incomes at or below 18972
two hundred per cent of the federal poverty guidelines, as defined 18973
in section 5101.46 of the Revised Code. After awarding 18974
scholarships to previous recipients and to low-income eligible 18975
students, the department shall select students by lot to receive 18976
any remaining scholarships. 18977

Sec. 3310.03. (A) A student is an "eligible student" for 18978
purposes of the educational choice scholarship pilot program if 18979
the student satisfies both of the following conditions: 18980

(1) The student either: 18981

(a) Is enrolled in a school building that is operated by the 18982
student's resident district and that the department of education 18983
declared, in the most recent rating of school buildings published 18984
prior to the first day of July of the school year for which a 18985
scholarship is sought and in the two preceding school years, to be 18986
in a state of academic emergency under section 3302.03 of the 18987
Revised Code; 18988

(b) Is eligible to enroll in kindergarten in the school year 18989
for which a scholarship is sought and otherwise would be assigned 18990
under section 3319.01 of the Revised Code to a school building 18991
described in division (A)(1)(a) of this section; 18992

(c) Is enrolled in a community school established under 18993
Chapter 3314. of the Revised Code but otherwise would be assigned 18994

under section 3319.01 of the Revised Code to a building described 18995
in division (A)(1)(a) of this section. 18996

(2) The student's resident district is not a school district 18997
in which the pilot project scholarship program is operating under 18998
sections 3313.974 to 3313.979 of the Revised Code. 18999

(B) A student who receives a scholarship under the 19000
educational choice scholarship pilot program remains an eligible 19001
student and may continue to receive scholarships in subsequent 19002
school years until the student completes grade twelve, so long as 19003
both of the following apply: 19004

(1) The student takes each state test prescribed for the 19005
student's grade level under section 3301.0710 or 3301.0712 of the 19006
Revised Code while enrolled in a chartered nonpublic school; 19007

(2) In each school year that the student is enrolled in a 19008
chartered nonpublic school, the student is absent from school for 19009
not more than twenty days that the school is open for instruction, 19010
not including absences due to illness or injury confirmed in 19011
writing by a physician. 19012

(C) The superintendent shall cease awarding first-time 19013
scholarships with respect to a school building that, in the most 19014
recent ratings of school buildings published under section 3302.03 19015
of the Revised Code prior to the first day of July of the school 19016
year, ceases to be in a state of academic emergency. However, 19017
students who have received scholarships in the prior school year 19018
remain eligible students pursuant to division (B) of this section. 19019

Sec. 3310.04. Any eligible student who is enrolled in a 19020
chartered nonpublic school and for whom a scholarship under the 19021
educational choice scholarship pilot program has been awarded 19022
shall be entitled to transportation to and from the chartered 19023
nonpublic school by the student's resident district in the manner 19024

prescribed in section 3327.01 of the Revised Code.

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Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct. The general assembly has prescribed separate scholarship amounts for the two pilot programs in recognition of their differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 of the Revised Code is a district-wide program that may award scholarships to students who do not attend district schools that face academic challenges, whereas the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code is limited to students of individual district school buildings that face academic challenges.

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Sec. 3310.06. It is the policy adopted by the general assembly that the educational choice scholarship pilot program shall be construed as one of several educational options available for students enrolled in academic emergency school buildings. Students may be enrolled in the schools of the student's resident district, in a community school established under Chapter 3314. of the Revised Code, in the schools of another school district pursuant to an open enrollment policy adopted under section 3313.98 of the Revised Code, in a chartered nonpublic school with or without a scholarship under the educational choice scholarship pilot program, or in other schools as the law may provide.

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Sec. 3310.07. Any parent, or any student who is at least eighteen years of age, who is seeking a scholarship under the

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educational choice scholarship pilot program shall notify the 19054
department of education of the student's and parent's names and 19055
address, the chartered nonpublic school in which the student has 19056
been accepted for enrollment, and the tuition charged by the 19057
school. 19058

Sec. 3310.08. (A) The amount paid for an eligible student 19059
under the educational choice scholarship pilot program shall be 19060
the lesser of the tuition of the chartered nonpublic school in 19061
which the student is enrolled or the maximum amount prescribed in 19062
section 3310.09 of the Revised Code. 19063

(B)(1) The department shall pay to the parent of each 19064
eligible student for whom a scholarship is awarded under the 19065
program, or to the student if at least eighteen years of age, 19066
periodic partial payments of the scholarship. 19067

(2) The department shall proportionately reduce or terminate 19068
the payments for any student who withdraws from a chartered 19069
nonpublic school prior to the end of the school year. 19070

(C)(1) The department shall deduct from the payments made to 19071
each school district under Chapter 3317. and, if necessary, 19072
sections 321.24 and 323.156 of the Revised Code the amount of five 19073
thousand two hundred dollars for each eligible student awarded a 19074
scholarship under the educational choice scholarship pilot program 19075
who is entitled under section 3313.64 or 3313.65 of the Revised 19076
Code to attend school in the district. 19077

(2) If the department reduces or terminates payments to a 19078
parent or a student, as prescribed in division (B)(2) of this 19079
section, and the student re-enrolls in the schools of the 19080
student's resident district before the end of the school year, the 19081
department shall proportionally restore to the resident district 19082
the amount deducted for that student under division (C)(1) of this 19083

section. 19084

(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: 19085
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(1) The district's state base-cost payment, as calculated under division (A)(1) of section 3317.022 of the Revised Code prior to making the adjustments under divisions (A)(2) and (3) of that section, with the scholarship students included in the district's formula ADM; 19090
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(2) What the district's state base-cost payment would have been, as calculated under division (A)(1) of that section prior to making the adjustments under divisions (A)(2) and (3) of that section, if the scholarship students were not included in the district's formula ADM. 19095
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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 the number of eligible students for whom deductions are made under division (C) of this section. 19100
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Sec. 3310.09. (A) The maximum amount awarded to an eligible student in fiscal year 2007 under the educational choice scholarship pilot program shall be as follows: 19105
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(1) For grades kindergarten through eight, four thousand two hundred fifty dollars; 19108
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(2) For grades nine through twelve, five thousand dollars. 19111

(B) In fiscal year 2008 and in each fiscal year thereafter, 19112

the maximum amount awarded under the program shall be the 19113
applicable maximum amount awarded in the previous fiscal year 19114
increased by the same percentage by which the general assembly 19115
increased the formula amount, as defined in section 3317.02 of the 19116
Revised Code, from the previous fiscal year. 19117

Sec. 3310.10. A scholarship awarded under section 3310.08 of 19118
the Revised Code may be used only to pay tuition to any chartered 19119
nonpublic school. 19120

Sec. 3310.13. (A) No chartered nonpublic school shall charge 19121
any student whose family income is at or below two hundred per 19122
cent of the federal poverty guidelines, as defined in section 19123
5101.46 of the Revised Code, a tuition fee that is greater than 19124
the total amount paid for that student under section 3310.08 of 19125
the Revised Code. 19126

(B) A chartered nonpublic school may charge any other student 19127
who is paid a scholarship under that section the difference 19128
between the amount of the scholarship and the regular tuition 19129
charge of the school. Each chartered nonpublic school shall permit 19130
such an eligible student's family, at the family's option, to 19131
provide volunteer services in lieu of cash payment to pay all or 19132
part of the amount of the school's tuition not covered by the 19133
scholarship paid under section 3310.08 of the Revised Code. 19134

Sec. 3310.14. Notwithstanding division (K) of section 19135
3301.0711 of the Revised Code, each chartered nonpublic school 19136
that enrolls students awarded scholarships under sections 3310.01 19137
to 3310.17 of the Revised Code annually shall administer the tests 19138
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 19139
to each scholarship student in accordance with section 3301.0711 19140
of the Revised Code. Each chartered nonpublic school shall report 19141
to the department of education the results of each test 19142

administered to each scholarship student under this section. 19143

Nothing in this section requires a chartered nonpublic school 19144
to administer any achievement test, except for an Ohio graduation 19145
test prescribed by division (B) of section 3301.0710 of the 19146
Revised Code, as required by section 3313.612 of the Revised Code, 19147
to any student enrolled in the school who is not a scholarship 19148
student. 19149

Sec. 3310.16. (A) The state board of education shall adopt 19150
rules in accordance with Chapter 119. of the Revised Code 19151
prescribing procedures for the administration of the educational 19152
choice scholarship pilot program. 19153

(B) The state board and the department of education shall not 19154
require chartered nonpublic schools to comply with any education 19155
laws or rules or other requirements that are not specified in 19156
sections 3310.01 to 3310.17 of the Revised Code and that otherwise 19157
would not apply to a chartered nonpublic school. 19158

Sec. 3310.17. The general assembly shall prescribe the number 19159
of students that may be selected each fiscal year for scholarships 19160
under the educational choice scholarship pilot program. 19161

Sec. 3311.059. The procedure prescribed in this section may 19162
be used in lieu of a transfer prescribed under section 3311.231 of 19163
the Revised Code. 19164

(A) Subject to divisions (B) and (C) of this section, a board 19165
of education of a local school district may by a resolution 19166
approved by a majority of all its members propose to sever that 19167
local school district from the territory of the educational 19168
service center in which the local school district is currently 19169
included and to instead annex the local school district to the 19170

territory of another educational service center, the current 19171
territory of which is adjacent to the territory of the educational 19172
service center in which the local school district is currently 19173
included. The resolution shall promptly be filed with the 19174
governing board of each educational service center affected by the 19175
resolution and with the superintendent of public instruction. 19176

~~(B) The resolution adopted under division (A) of this section 19177
shall not be effective unless it is approved by the state board of 19178
education. In deciding whether to approve the resolution, the 19179
state board shall consider the impact of an annexation on both the 19180
school district and the educational service center to which the 19181
district is proposed to be annexed, including the ability of that 19182
service center to deliver services in a cost-effective and 19183
efficient manner.~~ The severance of the local school district from 19184
one educational service center and its annexation to another 19185
educational service center under this section shall not be 19186
effective until one year after the first day of July following the 19187
later of the date that the ~~state board of education approves the 19188
resolution~~ is filed pursuant to division (A) of this section or 19189
the date the board of elections certifies the results of the 19190
referendum election as provided in division (C) of this section. 19191

(C) Within sixty days following the date of the adoption of 19192
the resolution under division (A) of this section, the electors of 19193
the local school district may petition for a referendum vote on 19194
the resolution. The question whether to approve or disapprove the 19195
resolution shall be submitted to the electors of such school 19196
district if a number of qualified electors equal to twenty per 19197
cent of the number of electors in the school district who voted 19198
for the office of governor at the most recent general election for 19199
that office sign a petition asking that the question of whether 19200
the resolution shall be disapproved be submitted to the electors. 19201
The petition shall be filed with the board of elections of the 19202

county in which the school district is located. If the school
district is located in more than one county, the petition shall be
filed with the board of elections of the county in which the
majority of the territory of the school district is located. The
board shall certify the validity and sufficiency of the signatures
on the petition.

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

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

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

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

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

(E) If a school district is severed from one educational service center and annexed to another service center under this section, the board of education of that school district shall not propose a subsequent severance and annexation action under this section that would be effective sooner than five years after the effective date of the next previous severance and annexation action under this section.

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: 19264

(1) Space in a building that is owned or controlled by a 19265
school district and that is used for other school district 19266
purposes in addition to latchkey programs; 19267

(2) Utilities furnished in conjunction with such space; 19268

(3) Transportation to a latchkey program on regular school 19269
buses. 19270

Sec. 3313.208. A board of education of a school district or 19271
the governing board of an educational service center may assess 19272
the need for latchkey programs in its district or territory and 19273
determine the best and most efficient manner of providing latchkey 19274
programs to children residing in the district or territory. Prior 19275
to operating any latchkey program, making any payments, or 19276
providing any employees or ancillary services under sections 19277
3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ 19278
shall provide notification to parents and other interested parties 19279
that the board is considering ~~district~~ participation in the 19280
provision of latchkey programs and shall adopt a policy ensuring 19281
public input on the board's decision whether or not to 19282
participate, as well as any decisions concerning the district's or 19283
service center's role in the implementation and funding of any 19284
latchkey programs if the board does decide to participate. The 19285
policy shall also include provision for regular, periodic public 19286
input in the evaluation of any school district or service center 19287
participation in the provision of latchkey programs. 19288

A board ~~of education~~ may ~~operate~~ provide a latchkey program, 19289
subject to the following limitations: 19290

(A) The program shall be maintained and operated and pupils 19291
shall be admitted pursuant to rules adopted by the board; 19292

(B) Fees or tuition, in amounts determined by the board, may 19293

be charged for participation in the program and shall be deposited 19294
in a special fund. 19295

~~(C) The board shall not expend any money from the general 19296
fund of the district for the program, except as follows: 19297~~

~~(1) The board may expend any money in the district's general 19298
fund resulting from an appropriation of the general assembly that 19299
specifically permits the expenditure of such appropriated funds 19300
for such a program. 19301~~

~~(2) The board may provide ancillary services for the program 19302
notwithstanding the fact that some portions of such services may 19303
be supported by money from the district's general fund. 19304~~

Sec. 3313.209. (A) A board of education of a school district 19305
that does not ~~operate~~ provide a latchkey program may provide 19306
ancillary services to and may make payments to any program 19307
provider that operates a latchkey program that enrolls one or more 19308
children who are residents of the school district. 19309

(B) A board of education of a school district that does not 19310
~~operate~~ provide a latchkey program and that does not make payments 19311
under division (A) of this section may furnish to any person or 19312
entity that operates a latchkey program ancillary services or 19313
employees for use solely in conjunction with the program's 19314
operation. 19315

~~(C) No board of education shall expend any money from the 19316
general fund of the district pursuant to division (A) or (B) of 19317
this section, except as follows: 19318~~

~~(1) The board may expend any money in the district's general 19319
fund resulting from an appropriation of the general assembly that 19320
specifically permits the expenditure of such appropriated funds 19321
for latchkey programs. 19322~~

~~(2) The board may provide ancillary services pursuant to 19323~~

~~division (A) or (B) of this section notwithstanding the fact that~~ 19324
~~some portion of such services may be supported by money from the~~ 19325
~~district's general fund.~~ 19326

~~(D)~~ A board of education shall enter into a contract with a 19327
program provider as a condition for making any payments or 19328
furnishing any ancillary services or employees authorized by 19329
division (A) or (B) of this section. 19330

Sec. 3313.489. (A) The superintendent of public instruction 19331
shall examine each ~~spending plan and appropriations measure~~ 19332
five-year projection of revenues and expenditures submitted under 19333
section 5705.391 of the Revised Code and shall determine whether 19334
the information contained therein, together with any other 19335
relevant information, indicates that the district may be 19336
financially unable to operate its instructional program on all 19337
days set forth in its adopted school calendars and pay all 19338
obligated expenses during the current fiscal year. If a board of 19339
education has not adopted a school calendar for the school year 19340
beginning on the first day of July of the current fiscal year at 19341
the time an examination is required under this division, the 19342
superintendent shall examine the ~~spending plan and appropriations~~ 19343
~~measure~~ five-year projection and determine whether the district 19344
may be financially unable to pay all obligated expenses and 19345
operate its instructional program for the number of days on which 19346
instruction was held in the preceding fiscal year. 19347

(B) If the superintendent of public instruction determines 19348
pursuant to division (A) of this section that a school district 19349
may be financially unable to operate its instructional program on 19350
all days required by such division and pay all obligated expenses 19351
during the current fiscal year, the superintendent shall provide 19352
written notification of such determination to the president of the 19353
district's board of education and the auditor of state. 19354

(C) This section does not apply to a school district declared 19355
to be under a fiscal emergency pursuant to division (B) of section 19356
3316.03 of the Revised Code. 19357

Sec. 3313.975. As used in this section and in sections 19358
3313.975 to 3313.979 of the Revised Code, "the pilot project 19359
school district" or "the district" means any school district 19360
included in the pilot project scholarship program pursuant to this 19361
section. 19362

(A) The superintendent of public instruction shall establish 19363
a pilot project scholarship program and shall include in such 19364
program any school districts that are or have ever been under 19365
federal court order requiring supervision and operational 19366
management of the district by the state superintendent. The 19367
program shall provide for a number of students residing in any 19368
such district to receive scholarships to attend alternative 19369
schools, and for an equal number of students to receive tutorial 19370
assistance grants while attending public school in any such 19371
district. 19372

(B) The state superintendent shall establish an application 19373
process and deadline for accepting applications from students 19374
residing in the district to participate in the scholarship 19375
program. In the initial year of the program students may only use 19376
a scholarship to attend school in grades kindergarten through 19377
third. 19378

The state superintendent shall award as many scholarships and 19379
tutorial assistance grants as can be funded given the amount 19380
appropriated for the program. In no case, however, shall more than 19381
fifty per cent of all scholarships awarded be used by students who 19382
were enrolled in a nonpublic school during the school year of 19383
application for a scholarship. 19384

(C)(1) The pilot project program shall continue in effect 19385
each year that the general assembly has appropriated sufficient 19386
money to fund scholarships and tutorial assistance grants. In each 19387
year the program continues, no new students may receive 19388
scholarships unless they are enrolled in ~~grade~~ grades 19389
kindergarten, ~~one, two, or three~~ to eight. However, any student 19390
who has received a scholarship the preceding year may continue to 19391
receive one until the student has completed grade ~~eight~~ ten. 19392
Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who 19393
previously has received a scholarship may receive a scholarship in 19394
grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic 19395
year, a student who previously has received a scholarship may 19396
receive a scholarship in grade ~~ten~~ twelve. 19397

(2) If the general assembly discontinues the scholarship 19398
program, all students who are attending an alternative school 19399
under the pilot project shall be entitled to continued admittance 19400
to that specific school through all grades ~~up to the tenth grade~~ 19401
that are provided in such school, under the same conditions as 19402
when they were participating in the pilot project. The state 19403
superintendent shall continue to make scholarship payments in 19404
accordance with division (A) or (B) of section 3313.979 of the 19405
Revised Code for students who remain enrolled in an alternative 19406
school under this provision in any year that funds have been 19407
appropriated for this purpose. 19408

If funds are not appropriated, the tuition charged to the 19409
parents of a student who remains enrolled in an alternative school 19410
under this provision shall not be increased beyond the amount 19411
equal to the amount of the scholarship plus any additional amount 19412
charged that student's parent in the most recent year of 19413
attendance as a participant in the pilot project, except that 19414
tuition for all the students enrolled in such school may be 19415
increased by the same percentage. 19416

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

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

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

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

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

- (4) The school does not discriminate on the basis of race, religion, or ethnic background; 19447
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- (5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered; 19449
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- (6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion; 19451
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- (7) The school does not provide false or misleading information about the school to parents, students, or the general public; 19454
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- (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. 19457
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- (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 19467
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contributions or services. 19478

(10) The school agrees not to charge any tuition to families 19479
of students in grades nine ~~and ten~~ through twelve receiving a 19480
scholarship in excess of the actual tuition charge of the school 19481
less seventy-five or ninety per cent of the scholarship amount 19482
established pursuant to division (C)(1) of section 3313.978 of the 19483
Revised Code, as applicable, excluding any increase described in 19484
division (C)(2) of that section. 19485

(B) The state superintendent shall revoke the registration of 19486
any school if, after a hearing, the superintendent determines that 19487
the school is in violation of any of the provisions of division 19488
(A) of this section. 19489

(C) Any public school located in a school district adjacent 19490
to the pilot project district may receive scholarship payments on 19491
behalf of parents pursuant to section 3313.979 of the Revised Code 19492
if the superintendent of the district in which such public school 19493
is located notifies the state superintendent prior to the first 19494
day of March that the district intends to admit students from the 19495
pilot project district for the ensuing school year pursuant to 19496
section 3327.06 of the Revised Code. 19497

(D) Any parent wishing to purchase tutorial assistance from 19498
any person or governmental entity pursuant to the pilot project 19499
program under sections 3313.974 to 3313.979 of the Revised Code 19500
shall apply to the state superintendent. The state superintendent 19501
shall approve providers who appear to possess the capability of 19502
furnishing the instructional services they are offering to 19503
provide. 19504

Sec. 3313.977. (A)(1) Each registered private school shall 19505
admit students to kindergarten and first, second, and third grades 19506
in accordance with the following priorities: 19507

(a) Students who were enrolled in the school during the preceding year; 19508
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(b) Siblings of students enrolled in the school during the preceding year, at the discretion of the school; 19510
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(c) Children from low-income families attending school or residing in the school district in which the school is located until the number of such students in each grade equals the number that constituted twenty per cent of the total number of students enrolled in the school during the preceding year in such grade. Admission of such twenty per cent shall be by lot from among all low-income family applicants who apply prior to the fifteenth day of February prior to admission. 19512
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(d) All other applicants residing anywhere, provided that all remaining available spaces shall be filled from among such applicants by lot. 19520
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Children from low-income families not selected by lot under division (A)(1)(c) of this section shall be included in the lottery of all remaining applicants pursuant to division (A)(1)(d) of this section. 19523
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(2) Each registered private school shall first admit to grades four through ~~ten~~ twelve students who were enrolled in the school during the preceding year. Any remaining spaces for students in these grades may be filled as determined by the school. 19527
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(B) Notwithstanding division (A) of this section, except where otherwise prohibited by federal law, a registered private school may elect to admit students of only one gender and may deny admission to any separately educated handicapped student. 19532
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(C) If a scholarship student who has been accepted in accordance with this section fails to enroll in the school for any 19536
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reason or withdraws from the school during the school year for any 19538
reason, the school may elect to replace such student with another 19539
scholarship student only by first offering the admission to any 19540
low-income scholarship students who filed applications by the 19541
preceding fifteenth day of February and who were not accepted at 19542
that time due to space limitations. 19543

Sec. 3313.978. (A) Annually by the first day of November, the 19544
superintendent of public instruction shall notify the pilot 19545
project school district of the number of initial scholarships that 19546
the state superintendent will be awarding in each of grades 19547
kindergarten through ~~third~~ eight. 19548

The state superintendent shall provide information about the 19549
scholarship program to all students residing in the district, 19550
shall accept applications from any such students until such date 19551
as shall be established by the state superintendent as a deadline 19552
for applications, and shall establish criteria for the selection 19553
of students to receive scholarships from among all those applying 19554
prior to the deadline, which criteria shall give preference to 19555
students from low-income families. For each student selected, the 19556
state superintendent shall also determine whether the student 19557
qualifies for seventy-five or ninety per cent of the scholarship 19558
amount. Students whose family income is at or above two hundred 19559
per cent of the maximum income level established by the state 19560
superintendent for low-income families shall qualify for 19561
seventy-five per cent of the scholarship amount and students whose 19562
family income is below two hundred per cent of that maximum income 19563
level shall qualify for ninety per cent of the scholarship amount. 19564
The state superintendent shall notify students of their selection 19565
prior to the fifteenth day of January and whether they qualify for 19566
seventy-five or ninety per cent of the scholarship amount. 19567

(1) A student receiving a pilot project scholarship may 19568

utilize it at an alternative public school by notifying the 19569
district superintendent, at any time before the beginning of the 19570
school year, of the name of the public school in an adjacent 19571
school district to which the student has been accepted pursuant to 19572
section 3327.06 of the Revised Code. 19573

(2) A student may decide to utilize a pilot project 19574
scholarship at a registered private school in the district if all 19575
of the following conditions are met: 19576

(a) By the fifteenth day of February of the preceding school 19577
year, or at any time prior to the start of the school year, the 19578
parent makes an application on behalf of the student to a 19579
registered private school. 19580

(b) The registered private school notifies the parent and the 19581
state superintendent as follows that the student has been 19582
admitted: 19583

(i) By the fifteenth day of March of the preceding school 19584
year if the student filed an application by the fifteenth day of 19585
February and was admitted by the school pursuant to division (A) 19586
of section 3313.977 of the Revised Code; 19587

(ii) Within one week of the decision to admit the student if 19588
the student is admitted pursuant to division (C) of section 19589
3313.977 of the Revised Code. 19590

(c) The student actually enrolls in the registered private 19591
school to which the student was first admitted or in another 19592
registered private school in the district or in a public school in 19593
an adjacent school district. 19594

(B) The state superintendent shall also award in any school 19595
year tutorial assistance grants to a number of students equal to 19596
the number of students who receive scholarships under division (A) 19597
of this section. Tutorial assistance grants shall be awarded 19598

solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

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

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or ~~an amount established by the state superintendent not in excess of~~ three thousand dollars before fiscal year 2007 and three thousand four hundred fifty dollars in fiscal year 2007 and thereafter.

In the case of basic scholarships for students in grades nine ~~and ten~~ through twelve, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or ~~an amount established by the state superintendent not in excess of~~ two thousand seven hundred dollars before fiscal year 2007 and three thousand four hundred

fifty dollars in fiscal year 2007 and thereafter. 19631

(2) The state superintendent shall provide for an increase in 19632
the basic scholarship amount in the case of any student who is a 19633
mainstreamed handicapped student and shall further increase such 19634
amount in the case of any separately educated handicapped child. 19635
Such increases shall take into account the instruction, related 19636
services, and transportation costs of educating such students. 19637

(3) In the case of tutorial assistance grants, the grant 19638
amount shall not exceed the lesser of the provider's actual 19639
charges for such assistance or a: 19640

(a) Before fiscal year 2007, a percentage established by the 19641
state superintendent, not to exceed twenty per cent, of the amount 19642
of the pilot project school district's average basic scholarship 19643
amount; 19644

(b) In fiscal year 2007 and thereafter, four hundred dollars. 19645

(4) No scholarship or tutorial assistance grant shall be 19646
awarded unless the state superintendent determines that 19647
twenty-five or ten per cent, as applicable, of the amount 19648
specified for such scholarship or grant pursuant to division 19649
(C)(1), (2), or (3) of this section will be furnished by a 19650
political subdivision, a private nonprofit or for profit entity, 19651
or another person. Only seventy-five or ninety per cent of such 19652
amounts, as applicable, shall be paid from state funds pursuant to 19653
section 3313.979 of the Revised Code. 19654

(D)(1) Annually by the first day of November, the state 19655
superintendent shall estimate the maximum per-pupil scholarship 19656
amounts for the ensuing school year. The state superintendent 19657
shall make this estimate available to the general public at the 19658
offices of the district board of education together with the forms 19659
required by division (D)(2) of this section. 19660

(2) Annually by the fifteenth day of January, the chief 19661

administrator of each registered private school located in the 19662
pilot project district and the principal of each public school in 19663
such district shall complete a parental information form and 19664
forward it to the president of the board of education. The 19665
parental information form shall be prescribed by the department of 19666
education and shall provide information about the grade levels 19667
offered, the numbers of students, tuition amounts, achievement 19668
test results, and any sectarian or other organizational 19669
affiliations. 19670

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 19671
and division (D) of section 3311.52 of the Revised Code, the 19672
provisions of this section and sections 3313.981 to 3313.983 of 19673
the Revised Code that apply to a city school district do not apply 19674
to a joint vocational or cooperative education school district 19675
unless expressly specified. 19676

(A) As used in this section and sections 3313.981 to 3313.983 19677
of the Revised Code: 19678

(1) "Parent" means either of the natural or adoptive parents 19679
of a student, except under the following conditions: 19680

(a) When the marriage of the natural or adoptive parents of 19681
the student has been terminated by a divorce, dissolution of 19682
marriage, or annulment or the natural or adoptive parents of the 19683
student are living separate and apart under a legal separation 19684
decree and the court has issued an order allocating the parental 19685
rights and responsibilities with respect to the student, "parent" 19686
means the residential parent as designated by the court except 19687
that "parent" means either parent when the court issues a shared 19688
parenting decree. 19689

(b) When a court has granted temporary or permanent custody 19690
of the student to an individual or agency other than either of the 19691

natural or adoptive parents of the student, "parent" means the
legal custodian of the child. 19692
19693

(c) When a court has appointed a guardian for the student,
"parent" means the guardian of the student. 19694
19695

(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. 19696
19697
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(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. 19699
19700
19701

(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. 19702
19703
19704

(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
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. 19705
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(6) "Formula amount" has the same meaning as in section
3317.02 of the Revised Code. 19712
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(7) "Adjusted formula amount" means the greater of the
following: 19714
19715

(a) The fiscal year 2005 formula amount multiplied by the
fiscal year 2005 cost-of-doing-business factor for a district
defined in section 3317.02 of the Revised Code; 19716
19717
19718

(b) The sum of the current formula amount plus the per pupil
amount of the base funding supplements specified in divisions
(C)(1) to (4) of section 3317.012 of the Revised Code. 19719
19720
19721

(8) "Poverty line" means the poverty line established by the 19722
director of the United States office of management and budget as 19723
revised by the director of the office of community services in 19724
accordance with section 673(2) of the "Community Services Block 19725
Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended. 19726

(9) "IEP" means an individualized education program defined 19727
by division (E) of section 3323.01 of the Revised Code. 19728

(10) "Other district" means a city, exempted village, or 19729
local school district having territory outside of the territory of 19730
a district adopting a resolution under this section. 19731

(11) "Other district student" means a student entitled under 19732
section 3313.64 or 3313.65 of the Revised Code to attend school in 19733
an other district. 19734

(12) "Other district joint vocational student" means a 19735
student who is enrolled in any city, exempted village, or local 19736
school district and who also enrolls in a joint vocational school 19737
district that does not contain the territory of the district for 19738
which that student is a native student in accordance with a policy 19739
adopted under section 3313.983 of the Revised Code. 19740

(B)(1) The board of education of each city, local, and 19741
exempted village school district shall adopt a resolution 19742
establishing for the school district one of the following 19743
policies: 19744

(a) A policy that entirely prohibits the enrollment of 19745
students from adjacent districts or other districts, other than 19746
students for whom tuition is paid in accordance with section 19747
3317.08 of the Revised Code; 19748

(b) A policy that permits enrollment of students from all 19749
adjacent districts in accordance with policy statements contained 19750
in the resolution; 19751

(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution. 19752
19753
19754

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following: 19755
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19757

(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. 19758
19759
19760
19761

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to: 19762
19763
19764

(i) The establishment of district capacity limits by grade level, school building, and education program; 19765
19766

(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; 19767
19768
19769
19770

(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools. 19771
19772

(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: 19773
19774
19775

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills; 19776
19777

(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 19778
19779
19780
19781

available in the district's schools; 19782

(3) A requirement that the student be proficient in the 19783
English language; 19784

(4) Rejection of any applicant because the student has been 19785
subject to disciplinary proceedings, except that if an applicant 19786
has been suspended or expelled by the student's district for ten 19787
consecutive days or more in the term for which admission is sought 19788
or in the term immediately preceding the term for which admission 19789
is sought, the procedures may include a provision denying 19790
admission of such applicant. 19791

(D)(1) Each school board permitting only enrollment of 19792
adjacent district students shall provide information about the 19793
policy adopted under this section, including the application 19794
procedures and deadlines, to the superintendent and the board of 19795
education of each adjacent district and, upon request, to the 19796
parent of any adjacent district student. 19797

(2) Each school board permitting enrollment of other district 19798
students shall provide information about the policy adopted under 19799
this section, including the application procedures and deadlines, 19800
upon request, to the board of education of any other school 19801
district or to the parent of any student anywhere in the state. 19802

(E) Any school board shall accept all credits toward 19803
graduation earned in adjacent or other district schools by an 19804
adjacent or other district student or a native student. 19805

(F)(1) No board of education may adopt a policy discouraging 19806
or prohibiting its native students from applying to enroll in the 19807
schools of an adjacent or any other district that has adopted a 19808
policy permitting such enrollment, except that: 19809

(a) A district may object to the enrollment of a native 19810
student in an adjacent or other district in order to maintain an 19811

appropriate racial balance. 19812

(b) The board of education of a district receiving funds 19813
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, 19814
may adopt a resolution objecting to the enrollment of its native 19815
students in adjacent or other districts if at least ten per cent 19816
of its students are included in the determination of the United 19817
States secretary of education made under section 20 U.S.C.A. 19818
238(a). 19819

(2) If a board objects to enrollment of native students under 19820
this division, any adjacent or other district shall refuse to 19821
enroll such native students unless tuition is paid for the 19822
students in accordance with section 3317.08 of the Revised Code. 19823
An adjacent or other district enrolling such students may not 19824
receive funding for those students in accordance with section 19825
3313.981 of the Revised Code. 19826

(G) The state board of education shall monitor school 19827
districts to ensure compliance with this section and the 19828
districts' policies. The board may adopt rules requiring uniform 19829
application procedures, deadlines for application, notification 19830
procedures, and record-keeping requirements for all school boards 19831
that adopt policies permitting the enrollment of adjacent or other 19832
district students, as applicable. If the state board adopts such 19833
rules, no school board shall adopt a policy that conflicts with 19834
those rules. 19835

(H) A resolution adopted by a board of education under this 19836
section that entirely prohibits the enrollment of students from 19837
adjacent and from other school districts does not abrogate any 19838
agreement entered into under section 3313.841 or 3313.92 of the 19839
Revised Code or any contract entered into under section 3313.90 of 19840
the Revised Code between the board of education adopting the 19841
resolution and the board of education of any adjacent or other 19842

district or prohibit these boards of education from entering into 19843
any such agreement or contract. 19844

(I) Nothing in this section shall be construed to permit or 19845
require the board of education of a city, exempted village, or 19846
local school district to exclude any native student of the 19847
district from enrolling in the district. 19848

Sec. 3314.01. (A)(1) A board of education may permit all or 19849
part of any of the schools under its control, upon request of a 19850
proposing person or group and provided the person or group meets 19851
the requirements of this chapter, to become a community school. 19852

(2) Any person or group of individuals may propose the 19853
creation of a community school pursuant to the provisions of this 19854
chapter. No nonpublic chartered or nonchartered school in 19855
existence on January 1, 1997, is eligible to become a community 19856
school under this chapter. 19857

(3) No home, as defined in section 3313.64 of the Revised 19858
Code, or any public benefit corporation affiliated with a home 19859
shall become an internet- or computer-based community school under 19860
this chapter. 19861

(B) A community school created under this chapter is a public 19862
school, independent of any school district, and is part of the 19863
state's program of education. A community school may sue and be 19864
sued, acquire facilities as needed, contract for any services 19865
necessary for the operation of the school, and enter into 19866
contracts with a sponsor pursuant to this chapter. The governing 19867
authority of a community school may carry out any act and ensure 19868
the performance of any function that is in compliance with the 19869
Ohio Constitution, this chapter, other statutes applicable to 19870
community schools, and the contract entered into under this 19871
chapter establishing the school. 19872

Sec. 3314.013. (A)(1) Until July 1, 2000, no more than 19873
seventy-five contracts between start-up schools and the state 19874
board of education may be in effect outside the pilot project area 19875
at any time under this chapter. 19876

(2) After July 1, 2000, and until July 1, 2001, no more than 19877
one hundred twenty-five contracts between start-up schools and the 19878
state board of education may be in effect outside the pilot 19879
project area at any time under this chapter. 19880

(3) This division applies only to contracts between start-up 19881
schools and the state board of education and contracts between 19882
start-up schools and entities described in divisions (C)(1)(b) to 19883
(f) of section 3314.02 of the Revised Code. 19884

Until July 1, 2005, not more than two hundred twenty-five 19885
contracts to which this division applies may be in effect at any 19886
time under this chapter. 19887

(4) This division applies only to contracts between start-up 19888
schools and entities described in divisions (C)(1)(b) to (f) of 19889
section 3314.02 of the Revised Code. 19890

After July 1, 2005, and until July 1, 2007, the number of 19891
contracts to which this division applies in effect at any time 19892
under this chapter shall be not more than twenty-five plus the 19893
number of such contracts in effect on the effective date of this 19894
amendment with schools that were open for operation as of May 1, 19895
2005. However, up to five start-up schools the mission of which, 19896
as specified under division (A)(2) of section 3314.03 of the 19897
Revised Code, is solely to serve dropouts shall not count toward 19898
the limit established by this division. 19899

(5) This division applies only to contracts between a 19900
start-up school and the board of education of the school district 19901
in which the school is or is proposed to be located. 19902

Until July 1, 2007, the number of contracts to which this 19903
division applies in effect at any time under this chapter shall be 19904
not more than twenty-five plus the number of such contracts in 19905
effect on the effective date of this amendment with schools that 19906
were open for operation as of May 1, 2005. However, up to five 19907
start-up schools the mission of which, as specified under division 19908
(A)(2) of section 3314.03 of the Revised Code, is solely to serve 19909
dropouts shall not count toward the limit established by this 19910
division. 19911

(6) No entity described in division (C)(1) of section 3314.02 19912
of the Revised Code shall enter into a contract with an internet- 19913
or computer-based community school between May 1, 2005, and one 19914
year after the effective date of this amendment, except as 19915
follows: 19916

(a) Any entity described in division (C)(1) of that section 19917
may renew a contract that the entity entered into with an 19918
internet- or computer-based community school prior to the 19919
effective date of this amendment. 19920

(b) Any entity described in divisions (C)(1)(a) to (e) of 19921
that section may assume sponsorship of an existing internet- or 19922
computer-based community school that was formerly sponsored by 19923
another entity and may enter into a contract with that community 19924
school in accordance with section 3314.03 of the Revised Code. 19925

(c) Any entity described in division (C)(1)(f) of that 19926
section may assume sponsorship of an existing internet- or 19927
computer-based community school in accordance with division (A)(7) 19928
of this section and may enter into a contract with that community 19929
school in accordance with section 3314.03 of the Revised Code. 19930

(7) Until July 1, 2005, any entity described in division 19931
(C)(1)(f) of section 3314.02 of the Revised Code may sponsor only 19932
a community school that formerly was sponsored by the state board 19933

of education under division (C)(1)(d) of that section, as it 19934
existed prior to April 8, 2003. After July 1, 2005, any such 19935
entity may assume sponsorship of any existing community school, 19936
and may sponsor any new community school that is not an internet- 19937
or computer-based community school. Beginning one year after the 19938
effective date of this amendment, any such entity may sponsor a 19939
new internet- or computer-based community school. 19940

(8) Nothing in division (A) of this section prohibits a 19941
community school from increasing the number of grade levels it 19942
offers. 19943

(B) Within twenty-four hours of a request by any person, the 19944
superintendent of public instruction shall indicate the number of 19945
preliminary agreements for start-up schools currently outstanding 19946
and the number of contracts for these schools in effect at the 19947
time of the request. 19948

(C) It is the intent of the general assembly to consider 19949
whether to provide limitations on the number of start-up community 19950
schools after July 1, 2001, following its examination of the 19951
results of the studies by the legislative office of education 19952
oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of 19953
the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 19954
No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. 19955
No. 770 of the 122nd general assembly. 19956

Sec. 3314.015. (A) The department of education shall be 19957
responsible for the oversight of sponsors of the community schools 19958
established under this chapter and shall provide technical 19959
assistance to schools and sponsors in their compliance with 19960
applicable laws and the terms of the contracts entered into under 19961
section 3314.03 of the Revised Code and in the development and 19962
start-up activities of those schools. In carrying out its duties 19963
under this section, the department shall do all of the following: 19964

(1) In providing technical assistance to proposing parties,	19965
governing authorities, and sponsors, conduct training sessions and	19966
distribute informational materials;	19967
(2) Approve entities to be sponsors of community schools and	19968
monitor the effectiveness of those sponsors in their oversight of	19969
the schools with which they have contracted;	19970
(3) By December thirty-first of each year, issue a report to	19971
the governor, the speaker of the house of representatives, the	19972
president of the senate, and the chairpersons of the house and	19973
senate committees principally responsible for education matters	19974
regarding the effectiveness of academic programs, operations, and	19975
legal compliance and of the financial condition of all community	19976
schools established under this chapter;	19977
(4) From time to time, make legislative recommendations to	19978
the general assembly designed to enhance the operation and	19979
performance of community schools.	19980
(B)(1) No entity listed in division (C)(1) of section 3314.02	19981
of the Revised Code shall enter into a preliminary agreement under	19982
division (C)(2) of section 3314.02 of the Revised Code until it	19983
has received approval from the department of education to sponsor	19984
community schools under this chapter and has entered into a	19985
written agreement with the department regarding the manner in	19986
which the entity will conduct such sponsorship. The department	19987
shall adopt in accordance with Chapter 119. of the Revised Code	19988
rules containing criteria, procedures, and deadlines for	19989
processing applications for such approval, for oversight of	19990
sponsors, for revocation of the approval of sponsors, and for	19991
entering into written agreements with sponsors. The rules shall	19992
require an entity to submit evidence of the entity's ability and	19993
willingness to comply with the provisions of division (D) of	19994
section 3314.03 of the Revised Code. <u>The rules also shall require</u>	19995

entities approved as sponsors on and after the effective date of 19996
this amendment to demonstrate a record of financial responsibility 19997
and successful implementation of educational programs. If an 19998
entity seeking approval on or after the effective date of this 19999
amendment to sponsor community schools in this state sponsors or 20000
operates schools in another state, at least one of the schools 20001
sponsored or operated by the entity must be comparable to or 20002
better than the performance of Ohio schools in a state of academic 20003
watch under section 3302.03 of the Revised Code, as determined by 20004
the department. 20005

An entity that ~~is approved to sponsor~~ sponsors community 20006
schools may enter into ~~any number of~~ preliminary agreements and 20007
sponsor ~~any number of~~ schools as follows, provided each school and 20008
the contract for sponsorship meets the requirements of this 20009
chapter: 20010

(a) An entity approved for sponsorship on or after July 1, 20011
2005, may sponsor not more than fifteen schools, except that if 20012
the department subsequently determines that the schools sponsored 20013
by such an entity have demonstrated satisfactory financial, 20014
administrative, and academic performance, the department may 20015
permit the entity to sponsor up to fifty schools. 20016

(b) An entity approved for sponsorship prior to July 1, 2005, 20017
that had entered into a preliminary agreement or a contract with 20018
thirty-five or fewer schools as of May 1, 2005, may sponsor not 20019
more than thirty-five schools, except that the department on a 20020
case-by-case basis may permit such an entity to sponsor up to 20021
fifty schools. 20022

(c) An entity approved for sponsorship prior to July 1, 2005, 20023
that had entered into a preliminary agreement or a contract with 20024
more than thirty-five but not more than fifty schools as of May 1, 20025
2005, may sponsor not more than the number of schools with which 20026
the entity had entered into a preliminary agreement or a contract 20027

as of May 1, 2005, except that the department on a case-by-case 20028
basis may permit such an entity to sponsor up to fifty schools. 20029

(d) An entity approved for sponsorship prior to July 1, 2005, 20030
that had entered into a preliminary agreement or a contract with 20031
more than fifty schools as of May 1, 2005, may sponsor not more 20032
than the number of schools with which the entity had entered into 20033
a preliminary agreement or a contract as of May 1, 2005. 20034

Upon approval of an entity to be a sponsor under this 20035
division, the department shall notify the entity of the number of 20036
schools the entity may sponsor. The limit imposed on an entity to 20037
which division (B)(1)(a), (b), or (c) of this section applies 20038
shall be decreased by one for each school sponsored by the entity 20039
that permanently closes pursuant to division (C) of section 20040
3314.36 of the Revised Code. The limit imposed on an entity to 20041
which division (B)(1)(d) of this section applies shall be 20042
decreased by one for each school sponsored by the entity that 20043
permanently closes for any reason. 20044

(2) The department of education shall determine, pursuant to 20045
criteria adopted by rule of the department, whether the mission 20046
proposed to be specified in the contract of a community school to 20047
be sponsored by a state university board of trustees or the 20048
board's designee under division (C)(1)(e) of section 3314.02 of 20049
the Revised Code complies with the requirements of that division. 20050
Such determination of the department is final. 20051

(3) The department of education shall determine, pursuant to 20052
criteria adopted by rule of the department, if any tax-exempt 20053
entity under section 501(c)(3) of the Internal Revenue Code that 20054
is proposed to be a sponsor of a community school is an 20055
education-oriented entity for purpose of satisfying the condition 20056
prescribed in division (C)(1)~~(e)(iv)~~(f)(iii) of section 3314.02 of 20057
the Revised Code. Such determination of the department is final. 20058

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship, as provided in division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted

rules. 20091

Sec. 3314.016. (A) Not later than July 1, 2006, the 20092
department of education shall select not more than two entities 20093
that have been approved for sponsorship under division (B)(1) of 20094
section 3314.015 of the Revised Code to sponsor any internet- or 20095
computer-based community school established after that date. At 20096
least one entity selected by the department shall be the sponsor 20097
of an existing internet- or computer-based community school. After 20098
July 1, 2006, no new internet- or computer-based community school 20099
shall be established under this chapter unless the school is 20100
sponsored by an entity selected by the department under this 20101
division. 20102

(B) If the department does not select at least one entity 20103
under division (A) of this section, the department shall have sole 20104
authority to sponsor any internet- or computer-based community 20105
school established after July 1, 2006. In that case, 20106
notwithstanding division (C) of section 3314.015 of the Revised 20107
Code, the term of any contract between the department and the 20108
governing authority of an internet- or computer-based community 20109
school may be for any length of time permitted under section 20110
3314.03 of the Revised Code. 20111

(C) Nothing in this section requires an internet- or 20112
computer-based community school established prior to July 1, 2006, 20113
to secure a new sponsor. 20114

Sec. 3314.02. (A) As used in this chapter: 20115

(1) "Sponsor" means an entity listed in division (C)(1) of 20116
this section, which has been approved by the department of 20117
education to sponsor community schools and with which the 20118
governing authority of the proposed community school enters into a 20119
contract pursuant to this section. 20120

(2) "Pilot project area" means the school districts included	20121
in the territory of the former community school pilot project	20122
established by former Section 50.52 of Am. Sub. H.B. No. 215 of	20123
the 122nd general assembly.	20124
(3) "Challenged school district" means any of the following:	20125
(a) A school district that is part of the pilot project area;	20126
(b) A school district that is either in a state of academic	20127
emergency or in a state of academic watch under section 3302.03 of	20128
the Revised Code;	20129
(c) A big eight school district.	20130
(4) "Big eight school district" means a school district that	20131
for fiscal year 1997 had both of the following:	20132
(a) A percentage of children residing in the district and	20133
participating in the predecessor of Ohio works first greater than	20134
thirty per cent, as reported pursuant to section 3317.10 of the	20135
Revised Code;	20136
(b) An average daily membership greater than twelve thousand,	20137
as reported pursuant to former division (A) of section 3317.03 of	20138
the Revised Code.	20139
(5) "New start-up school" means a community school other than	20140
one created by converting all or part of an existing public	20141
school, as designated in the school's contract pursuant to	20142
division (A)(17) of section 3314.03 of the Revised Code.	20143
(6) "Urban school district" means one of the state's	20144
twenty-one urban school districts as defined in division (O) of	20145
section 3317.02 of the Revised Code as that section existed prior	20146
to July 1, 1998.	20147
(7) "Internet- or computer-based community school" means a	20148
community school established under this chapter in which the	20149
enrolled students work primarily from their residences on	20150

assignments in nonclassroom-based learning opportunities provided 20151
via an internet- or other computer-based instructional method ~~that~~ 20152
~~does not rely on regular classroom instruction or via~~ 20153
~~comprehensive instructional methods that include internet based,~~ 20154
~~other computer based, and noncomputer based learning~~ 20155
~~opportunities.~~ 20156

(B) Any person or group of individuals may initially propose 20157
under this division the conversion of all or a portion of a public 20158
school to a community school. The proposal shall be made to the 20159
board of education of the city, local, or exempted village school 20160
district in which the public school is proposed to be converted. 20161
Upon receipt of a proposal, a board may enter into a preliminary 20162
agreement with the person or group proposing the conversion of the 20163
public school, indicating the intention of the board of education 20164
to support the conversion to a community school. A proposing 20165
person or group that has a preliminary agreement under this 20166
division may proceed to finalize plans for the school, establish a 20167
governing authority for the school, and negotiate a contract with 20168
the board of education. Provided the proposing person or group 20169
adheres to the preliminary agreement and all provisions of this 20170
chapter, the board of education shall negotiate in good faith to 20171
enter into a contract in accordance with section 3314.03 of the 20172
Revised Code and division (C) of this section. 20173

(C)(1) Any person or group of individuals may propose under 20174
this division the establishment of a new start-up school to be 20175
located in a challenged school district. The proposal may be made 20176
to any of the following entities: 20177

(a) The board of education of the district in which the 20178
school is proposed to be located; 20179

(b) The board of education of any joint vocational school 20180
district with territory in the county in which is located the 20181

majority of the territory of the district in which the school is
proposed to be located; 20182
20183

(c) The board of education of any other city, local, or
exempted village school district having territory in the same 20184
county where the district in which the school is proposed to be 20185
located has the major portion of its territory; 20186
20187

(d) The governing board of any educational service center; 20188

(e) A sponsoring authority designated by the board of 20189
trustees of any of the thirteen state universities listed in 20190
section 3345.011 of the Revised Code or the board of trustees 20191
itself as long as a mission of the proposed school to be specified 20192
in the contract under division (A)(2) of section 3314.03 of the 20193
Revised Code and as approved by the department of education under 20194
division (B)(2) of section 3314.015 of the Revised Code will be 20195
the practical demonstration of teaching methods, educational 20196
technology, or other teaching practices that are included in the 20197
curriculum of the university's teacher preparation program 20198
approved by the state board of education; 20199

(f) Any qualified tax-exempt entity under section 501(c)(3) 20200
of the Internal Revenue Code as long as all of the following 20201
conditions are satisfied: 20202

(i) The entity has been in operation for at least five years 20203
prior to applying to be a community school sponsor. 20204

(ii) The entity has assets of at least five hundred thousand 20205
dollars. 20206

(iii) The department of education has determined that the 20207
entity is an education-oriented entity under division (B)(3) of 20208
section 3314.015 of the Revised Code. 20209

~~Until July 1, 2005, any entity described in division 20210
(C)(1)(f) of this section may sponsor only schools that formerly 20211~~

~~were sponsored by the state board of education under division 20212
(C)(1)(d) of this section, as it existed prior to April 8, 2003. 20213
After July 1, 2005, such entity may sponsor any new or existing 20214
school. 20215~~

Any entity described in division (C)(1) of this section may 20216
enter into a preliminary agreement pursuant to division (C)(2) of 20217
this section with the proposing person or group. 20218

(2) A preliminary agreement indicates the intention of an 20219
entity described in division (C)(1) of this section to sponsor the 20220
community school. A proposing person or group that has such a 20221
preliminary agreement may proceed to finalize plans for the 20222
school, establish a governing authority as described in division 20223
(E) of this section for the school, and negotiate a contract with 20224
the entity. Provided the proposing person or group adheres to the 20225
preliminary agreement and all provisions of this chapter, the 20226
entity shall negotiate in good faith to enter into a contract in 20227
accordance with section 3314.03 of the Revised Code. 20228

(3) A new start-up school that is established in a school 20229
district while that district is either in a state of academic 20230
emergency or in a state of academic watch under section 3302.03 of 20231
the Revised Code may continue in existence once the school 20232
district is no longer in a state of academic emergency or academic 20233
watch, provided there is a valid contract between the school and a 20234
sponsor. 20235

(4) A copy of every preliminary agreement entered into under 20236
this division shall be filed with the superintendent of public 20237
instruction. 20238

(D) A majority vote of the board of a sponsoring entity and a 20239
majority vote of the members of the governing authority of a 20240
community school shall be required to adopt a contract and convert 20241
the public school to a community school or establish the new 20242

start-up school. Beginning on the effective date of this 20243
amendment, adoption of the contract shall occur not later than the 20244
fifteenth day of March prior to the school year in which the 20245
school will open. Up to the statewide limit prescribed in section 20246
3314.013 of the Revised Code, an unlimited number of community 20247
schools may be established in any school district provided that a 20248
contract is entered into for each community school pursuant to 20249
this chapter. 20250

(E) As used in this division, "immediate relatives" are 20251
limited to spouses, children, parents, grandparents, siblings, and 20252
in-laws. 20253

Each new start-up community school established under this 20254
chapter shall be under the direction of a governing authority 20255
which shall consist of a board of not less than five individuals 20256
who are not owners or employees, or immediate relatives of owners 20257
or employees, of any for-profit firm that operates or manages a 20258
school for the governing authority. 20259

No person shall serve on the governing authority or operate 20260
the community school under contract with the governing authority 20261
so long as the person owes the state any money or is in a dispute 20262
over whether the person owes the state any money concerning the 20263
operation of a community school that has closed. 20264

(F) Nothing in this chapter shall be construed to permit the 20265
establishment of a community school in more than one school 20266
district under the same contract. 20267

(G) A new start-up school that is established prior to ~~the~~ 20268
~~effective date of this amendment~~ August 15, 2003, in an urban 20269
school district that is not also a big-eight school district may 20270
continue to operate after ~~the effective~~ that date ~~of this~~ 20271
~~amendment~~ and the contract between the school's governing 20272
authority and the school's sponsor may be renewed, as provided 20273

under this chapter, after ~~the effective~~ that date ~~of this~~ 20274
~~amendment~~, but no additional new start-up schools may be 20275
established in such a district unless the district is a challenged 20276
school district as defined in this section as it exists on and 20277
after ~~the effective~~ that date ~~of this amendment~~. 20278

Sec. 3314.021. (A) This section applies to any entity that is 20279
exempt from taxation under section 501(c)(3) of the Internal 20280
Revenue Code and that satisfies the conditions specified in 20281
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 20282
Revised Code but does not satisfy the condition specified in 20283
division (C)(1)(f)(i) of that section. 20284

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 20285
of the Revised Code, an entity described in division (A) of this 20286
section may do both of the following without obtaining the 20287
department of education's approval of its sponsorship under 20288
division (B)(1) of section 3314.015 of the Revised Code: 20289

(1) Succeed the board of trustees of a state university 20290
located in the pilot project area or that board's designee as the 20291
sponsor of a community school established under this chapter; 20292

(2) Continue to sponsor that school in conformance with the 20293
terms of the contract between the board of trustees or its 20294
designee and the governing authority of the community school and 20295
renew that contract as provided in division (E) of section 3314.03 20296
of the Revised Code. 20297

(C) The entity that succeeds the board of trustees or the 20298
board's designee as sponsor of a community school under division 20299
(B) of this section also may enter into contracts to sponsor other 20300
community schools located in any challenged school district, 20301
without obtaining the department's approval of its sponsorship 20302
under division (B)(1) of section 3314.015 of the Revised Code, and 20303
not subject to the restriction of ~~the paragraph following~~ division 20304

~~(C)(1)(f)(iii)~~ division (A)(7) of section ~~3314.02~~ 3314.013 of the Revised Code, as long as the contracts conform with and the entity complies with all other requirements of this chapter.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003;

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests;

(4) Performance standards by which the success of the school will be evaluated by the sponsor~~r~~. If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division.

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;	20334
(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.	20335 20336 20337 20338 20339 20340 20341 20342
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	20343 20344
(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.	20345 20346 20347 20348 20349 20350
(9) The facilities to be used and their locations;	20351
(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;	20352 20353 20354 20355 20356 20357
(11) That the school will comply with the following requirements:	20358 20359
(a) The <u>If established prior to the effective date of this amendment, the</u> school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year † . <u>If established on or after the</u>	20360 20361 20362 20363

effective date of this amendment, the school will provide learning 20364
opportunities to a minimum of one hundred students for a minimum 20365
of nine hundred twenty hours per school year; however, the sponsor 20366
may waive the minimum number of students served by the school 20367
prescribed in this sentence, subject to the approval of the 20368
department of education. 20369

(b) The governing authority will purchase liability 20370
insurance, or otherwise provide for the potential liability of the 20371
school; 20372

(c) The school will be nonsectarian in its programs, 20373
admission policies, employment practices, and all other 20374
operations, and will not be operated by a sectarian school or 20375
religious institution; 20376

(d) The school will comply with sections 9.90, 9.91, 109.65, 20377
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 20378
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 20379
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 20380
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 20381
3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 20382
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 20383
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 20384
4123., 4141., and 4167. of the Revised Code as if it were a school 20385
district and will comply with section 3301.0714 of the Revised 20386
Code in the manner specified in section 3314.17 of the Revised 20387
Code; 20388

(e) The school shall comply with Chapter 102. of the Revised 20389
Code except that nothing in that chapter shall prohibit a member 20390
of the school's governing board from also being an employee of the 20391
school and nothing in that chapter or section 2921.42 of the 20392
Revised Code shall prohibit a member of the school's governing 20393
board from having an interest in a contract into which the 20394
governing board enters that is not a contract with a for-profit 20395

firm for the operation or management of a school under the 20396
auspices of the governing authority; 20397

(f) The school will comply with sections 3313.61, 3313.611, 20398
and 3313.614 of the Revised Code, except that the requirement in 20399
sections 3313.61 and 3313.611 of the Revised Code that a person 20400
must successfully complete the curriculum in any high school prior 20401
to receiving a high school diploma may be met by completing the 20402
curriculum adopted by the governing authority of the community 20403
school rather than the curriculum specified in Title XXXIII of the 20404
Revised Code or any rules of the state board of education; 20405

(g) The school governing authority will submit within four 20406
months after the end of each school year a report of its 20407
activities and progress in meeting the goals and standards of 20408
divisions (A)(3) and (4) of this section and its financial status 20409
to the sponsor, the parents of all students enrolled in the 20410
school, and the legislative office of education oversight. The 20411
school will collect and provide any data that the legislative 20412
office of education oversight requests in furtherance of any study 20413
or research that the general assembly requires the office to 20414
conduct, including the studies required under Section 50.39 of Am. 20415
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 20416
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 20417

(12) Arrangements for providing health and other benefits to 20418
employees; 20419

(13) The length of the contract, which shall begin at the 20420
beginning of an academic year. No contract shall exceed five years 20421
unless such contract has been renewed pursuant to division (E) of 20422
this section. 20423

(14) The governing authority of the school, which shall be 20424
responsible for carrying out the provisions of the contract; 20425

(15) A financial plan detailing an estimated school budget 20426

for each year of the period of the contract and specifying the 20427
total estimated per pupil expenditure amount for each such year. 20428
The plan shall specify for each year the base formula amount that 20429
will be used for purposes of funding calculations under section 20430
3314.08 of the Revised Code. This base formula amount for any year 20431
shall not exceed the formula amount defined under section 3317.02 20432
of the Revised Code. The plan may also specify for any year a 20433
percentage figure to be used for reducing the per pupil amount of 20434
~~disadvantaged pupil impact aid~~ the subsidy calculated pursuant to 20435
section 3317.029 of the Revised Code the school is to receive that 20436
year under section 3314.08 of the Revised Code. 20437

(16) Requirements and procedures regarding the disposition of 20438
employees of the school in the event the contract is terminated or 20439
not renewed pursuant to section 3314.07 of the Revised Code; 20440

(17) Whether the school is to be created by converting all or 20441
part of an existing public school or is to be a new start-up 20442
school, and if it is a converted public school, specification of 20443
any duties or responsibilities of an employer that the board of 20444
education that operated the school before conversion is delegating 20445
to the governing board of the community school with respect to all 20446
or any specified group of employees provided the delegation is not 20447
prohibited by a collective bargaining agreement applicable to such 20448
employees; 20449

(18) Provisions establishing procedures for resolving 20450
disputes or differences of opinion between the sponsor and the 20451
governing authority of the community school; 20452

(19) A provision requiring the governing authority to adopt a 20453
policy regarding the admission of students who reside outside the 20454
district in which the school is located. That policy shall comply 20455
with the admissions procedures specified in ~~section~~ sections 20456
3314.06 and 3314.061 of the Revised Code and, at the sole 20457

discretion of the authority, shall do one of the following: 20458

(a) Prohibit the enrollment of students who reside outside 20459
the district in which the school is located; 20460

(b) Permit the enrollment of students who reside in districts 20461
adjacent to the district in which the school is located; 20462

(c) Permit the enrollment of students who reside in any other 20463
district in the state. 20464

(20) A provision recognizing the authority of the department 20465
of education to take over the sponsorship of the school in 20466
accordance with the provisions of division (C) of section 3314.015 20467
of the Revised Code; 20468

(21) A provision recognizing the sponsor's authority to 20469
assume the operation of a school under the conditions specified in 20470
division (B) of section 3314.073 of the Revised Code; 20471

(22) A provision recognizing both of the following: 20472

(a) The authority of public health and safety officials to 20473
inspect the facilities of the school and to order the facilities 20474
closed if those officials find that the facilities are not in 20475
compliance with health and safety laws and regulations; 20476

(b) The authority of the department of education as the 20477
community school oversight body to suspend the operation of the 20478
school under section 3314.072 of the Revised Code if the 20479
department has evidence of conditions or violations of law at the 20480
school that pose an imminent danger to the health and safety of 20481
the school's students and employees and the sponsor refuses to 20482
take such action; 20483

(23) A description of the learning opportunities that will be 20484
offered to students including both classroom-based and 20485
non-classroom-based learning opportunities that is in compliance 20486
with criteria for student participation established by the 20487

department under division (L)(2) of section 3314.08 of the Revised Code; 20488
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(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent 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. 20490
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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. 20496
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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: 20505
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(1) The process by which the governing authority of the school will be selected in the future; 20508
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(2) The management and administration of the school; 20510

(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; 20511
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(4) The instructional program and educational philosophy of the school; 20515
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(5) Internal financial controls. 20517

(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 authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.
Beginning July 1, 2006, no sponsor shall charge a community school it sponsors a fee for any services provided to the school, except as authorized by this division.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the

school to be on probationary status pursuant to section 3314.073 20549
of the Revised Code, suspend the operation of the school pursuant 20550
to section 3314.072 of the Revised Code, or terminate the contract 20551
of the school pursuant to section 3314.07 of the Revised Code as 20552
determined necessary by the sponsor; 20553

(6) Have in place a plan of action to be undertaken in the 20554
event the community school experiences financial difficulties or 20555
closes prior to the end of a school year. 20556

(E) Upon the expiration of a contract entered into under this 20557
section, the sponsor of a community school may, with the approval 20558
of the governing authority of the school, renew that contract for 20559
a period of time determined by the sponsor, but not ending earlier 20560
than the end of any school year, if the sponsor finds that the 20561
school's compliance with applicable laws and terms of the contract 20562
and the school's progress in meeting the academic goals prescribed 20563
in the contract have been satisfactory. Any contract that is 20564
renewed under this division remains subject to the provisions of 20565
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 20566

(F) If a community school fails to open for operation within 20567
one year after the contract entered into under this section is 20568
adopted pursuant to division (D) of section 3314.02 of the Revised 20569
Code or permanently closes prior to the expiration of the 20570
contract, the contract shall be void and the school shall not 20571
enter into a contract with any other sponsor. A school shall not 20572
be considered permanently closed because the operations of the 20573
school have been suspended pursuant to section 3314.072 of the 20574
Revised Code. Any contract that becomes void under this division 20575
shall not count toward any statewide limit on the number of such 20576
contracts prescribed by section 3314.013 of the Revised Code. 20577

Sec. 3314.06. The governing authority of each community 20578
school established under this chapter shall adopt admission 20579

procedures that specify the following: 20580

(A) That except as otherwise provided in this section, 20581
admission to the school shall be open to any individual age five 20582
to twenty-two entitled to attend school pursuant to section 20583
3313.64 or 3313.65 of the Revised Code in a school district in the 20584
state. 20585

(B)(1) That admission to the school may be limited to 20586
students who have attained a specific grade level or are within a 20587
specific age group; to students that meet a definition of 20588
"at-risk," as defined in the contract; ~~or~~ to residents of a 20589
specific geographic area within the district, as defined in the 20590
contract; or to separate groups of autistic students and 20591
nonhandicapped students, as authorized in section 3314.061 of the 20592
Revised Code and as defined in the contract. 20593

(2) For purposes of division (B)(1) of this section, 20594
"at-risk" students may include those students identified as gifted 20595
students under section 3324.03 of the Revised Code. 20596

(C) Whether enrollment is limited to students who reside in 20597
the district in which the school is located or is open to 20598
residents of other districts, as provided in the policy adopted 20599
pursuant to the contract. 20600

(D)(1) That there will be no discrimination in the admission 20601
of students to the school on the basis of race, creed, color, 20602
handicapping condition, or sex except that ~~the~~: 20603

(a) The governing authority may establish single-gender 20604
schools for the purpose described in division (G) of this section 20605
provided comparable facilities and learning opportunities are 20606
offered for both boys and girls. Such comparable facilities and 20607
opportunities may be offered for each sex at separate locations. 20608

(b) The governing authority may establish a school that 20609
simultaneously serves a group of students identified as autistic 20610

and a group of students who are not handicapped, as authorized in 20611
section 3314.061 of the Revised Code. However, unless the total 20612
capacity established for the school has been filled, no student 20613
with any handicap shall be denied admission on the basis of that 20614
handicap. 20615

(2) That upon admission of any handicapped student, the 20616
community school will comply with all federal and state laws 20617
regarding the education of handicapped students. 20618

(E) That the school may not limit admission to students on 20619
the basis of intellectual ability, measures of achievement or 20620
aptitude, or athletic ability, except that a school may limit its 20621
enrollment to students as described in division (B)~~(2)~~ of this 20622
section. 20623

(F) That the community school will admit the number of 20624
students that does not exceed the capacity of the school's 20625
programs, classes, grade levels, or facilities. 20626

(G) That the purpose of single-gender schools that are 20627
established shall be to take advantage of the academic benefits 20628
some students realize from single-gender instruction and 20629
facilities and to offer students and parents residing in the 20630
district the option of a single-gender education. 20631

(H) That, except as otherwise provided under division (B) of 20632
this section or section 3314.061 of the Revised Code, if the 20633
number of applicants exceeds the capacity restrictions of division 20634
(F) of this section, students shall be admitted by lot from all 20635
those submitting applications, except preference shall be given to 20636
students attending the school the previous year and to students 20637
who reside in the district in which the school is located. 20638
Preference may be given to siblings of students attending the 20639
school the previous year. 20640

(I) If the school is an internet- or computer-based community 20641

school, that the school shall not admit on or after the effective 20642
date of this amendment any student, other than a student enrolling 20643
in kindergarten, who was not enrolled in a public school for at 20644
least one semester or an equivalent term during the three 20645
preceding school years. 20646

Notwithstanding divisions (A) to ~~(H)~~(I) of this section, in 20647
the event the racial composition of the enrollment of the 20648
community school is violative of a federal desegregation order, 20649
the community school shall take any and all corrective measures to 20650
comply with the desegregation order. 20651

Sec. 3314.061. A governing authority may establish a 20652
community school under this chapter that is limited to providing 20653
simultaneously special education and related services to a 20654
specified number of students identified as autistic and regular 20655
educational programs to a specified number of students who are not 20656
handicapped. The contract between the governing authority and the 20657
school's sponsor shall specify the target ratio of number of 20658
autistic students to number of nonhandicapped students in the 20659
school's population, the total number of autistic students that 20660
may be enrolled in the school, and the total number of 20661
nonhandicapped students that may be enrolled in the school. A 20662
school established in accordance with this section is subject to 20663
division (H) of section 3314.06 of the Revised Code, except that 20664
because the governing authority establishes a separate capacity 20665
for autistic students and nonhandicapped students, if the number 20666
of applicants among the group of autistic students or the group of 20667
nonhandicapped students exceeds the capacity restrictions for that 20668
group, students shall be admitted by lot from all those of that 20669
same group submitting applications. However, unless the total 20670
capacity established for the school has been filled, no student 20671
with any handicap shall be denied admission on the basis of that 20672

handicap. 20673

Sec. 3314.074. Divisions (A) and (B) of this section apply 20674
only to the extent permitted under Chapter 1702. of the Revised 20675
Code. 20676

(A) If any community school established under this chapter 20677
permanently closes and ceases its operation as a community school, 20678
the assets of that school shall be distributed first to the 20679
retirement funds of employees of the school, employees of the 20680
school, and private creditors who are owed compensation and then 20681
any remaining funds shall be paid to the state treasury to the 20682
credit of the general revenue fund. 20683

(B) If a community school closes and ceases to operate as a 20684
community school and the school has received computer hardware or 20685
software from the former Ohio SchoolNet commission or the eTech 20686
Ohio commission, such hardware or software shall be returned to 20687
the eTech Ohio commission, and the eTech Ohio commission shall 20688
redistribute the hardware and software, to the extent such 20689
redistribution is possible, to school districts in conformance 20690
with the provisions of the programs operated and administered by 20691
the eTech Ohio commission. 20692

(C) If the assets of the school are insufficient to pay all 20693
persons or entities to whom compensation is owed, the 20694
prioritization of the distribution of the assets to individual 20695
persons or entities within each class of payees may be determined 20696
by decree of a court in accordance with this section and Chapter 20697
1702. of the Revised Code. 20698

Sec. 3314.08. (A) As used in this section: 20699

(1) "Base formula amount" means the amount specified as such 20700
in a community school's financial plan for a school year pursuant 20701
to division (A)(15) of section 3314.03 of the Revised Code. 20702

- (2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code. 20703
20704
- (3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code. 20705
20706
- (4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section. 20707
20708
20709
- (5) "Applicable vocational education weight" means: 20710
- (a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division; 20711
20712
20713
- (b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division. 20714
20715
20716
- (6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code. 20717
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20719
- (7) A community school student is "included in the ~~DPIA~~ poverty student count" of a school district if the student is entitled to attend school in the district and+ 20720
20721
20722
- ~~(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.~~ 20723
20724
- ~~(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.~~ 20725
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20727
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20729
- (8) "DPIA Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance a 20730
20731
20732

community school is entitled to receive pursuant to divisions 20733
(D)(5) and (6) of this section in any year, as specified in the 20734
school's financial plan for the year pursuant to division (A)(15) 20735
of section 3314.03 of the Revised Code. 20736

(9) "All-day kindergarten" has the same meaning as in section 20737
3317.029 of the Revised Code. 20738

(10) "SF-3 payment" means the sum of the payments to a school 20739
district in a fiscal year under divisions (A), (C)(1), (C)(4), 20740
(D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 20741
of section 3317.024, and sections 3317.029, ~~3317.0212~~, ~~3317.0213~~, 20742
3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of 20743
the Revised Code after making the adjustments required by sections 20744
3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and~~ 20745
(M), and (N) of section 3317.023, and division (C) of section 20746
3317.20 of the Revised Code. 20747

(B) The state board of education shall adopt rules requiring 20748
both of the following: 20749

(1) The board of education of each city, exempted village, 20750
and local school district to annually report the number of 20751
students entitled to attend school in the district who are 20752
enrolled in grades one through twelve in a community school 20753
established under this chapter, the number of students entitled to 20754
attend school in the district who are enrolled in kindergarten in 20755
a community school, the number of those kindergartners who are 20756
enrolled in all-day kindergarten in their community school, and 20757
for each child, the community school in which the child is 20758
enrolled. 20759

(2) The governing authority of each community school 20760
established under this chapter to annually report all of the 20761
following: 20762

(a) The number of students enrolled in grades one through 20763

twelve and the number of students enrolled in kindergarten in the	20764
school who are not receiving special education and related	20765
services pursuant to an IEP;	20766
(b) The number of enrolled students in grades one through	20767
twelve and the number of enrolled students in kindergarten, who	20768
are receiving special education and related services pursuant to	20769
an IEP;	20770
(c) The number of students reported under division (B)(2)(b)	20771
of this section receiving special education and related services	20772
pursuant to an IEP for a handicap described in each of divisions	20773
(A) to (F) of section 3317.013 of the Revised Code;	20774
(d) The full-time equivalent number of students reported	20775
under divisions (B)(2)(a) and (b) of this section who are enrolled	20776
in vocational education programs or classes described in each of	20777
divisions (A) and (B) of section 3317.014 of the Revised Code that	20778
are provided by the community school;	20779
(e) Twenty per cent of the number of students reported under	20780
divisions (B)(2)(a) and (b) of this section who are not reported	20781
under division (B)(2)(d) of this section but who are enrolled in	20782
vocational education programs or classes described in each of	20783
divisions (A) and (B) of section 3317.014 of the Revised Code at a	20784
joint vocational school district under a contract between the	20785
community school and the joint vocational school district and are	20786
entitled to attend school in a city, local, or exempted village	20787
school district whose territory is part of the territory of the	20788
joint vocational district;	20789
(f) The number of enrolled preschool handicapped students	20790
receiving special education services in a state-funded unit;	20791
(g) The community school's base formula amount;	20792
(h) For each student, the city, exempted village, or local	20793

school district in which the student is entitled to attend school; 20794

(i) Any ~~DPIA~~ poverty-based assistance reduction factor that 20795
applies to a school year. 20796

(C) From the SF-3 payment made to a city, exempted village, 20797
or local school district and, if necessary, from the payment made 20798
to the district under sections 321.24 and 323.156 of the Revised 20799
Code, the department of education shall annually subtract the sum 20800
of the amounts described in divisions (C)(1) to ~~(6)~~(9) of this 20801
section. However, when deducting payments on behalf of students 20802
enrolled in internet- or computer-based community schools, the 20803
department shall deduct only those amounts described in divisions 20804
(C)(1) and (2) of this section. Furthermore, the aggregate amount 20805
deducted under this division shall not exceed the sum of the 20806
district's SF-3 payment and its payment under sections 321.24 and 20807
323.156 of the Revised Code. 20808

(1) An amount equal to the sum of the amounts obtained when, 20809
for each community school where the district's students are 20810
enrolled, the number of the district's students reported under 20811
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 20812
in grades one through twelve, and one-half the number of students 20813
reported under those divisions who are enrolled in kindergarten, 20814
in that community school is multiplied by the greater of the 20815
following: 20816

(a) The fiscal year 2005 base formula amount of that 20817
community school as adjusted by the school district's fiscal year 20818
2005 cost-of-doing-business factor_i 20819

(b) The sum of the current base formula amount of that 20820
community school plus the per pupil amount of the base funding 20821
supplements specified in divisions (C)(1) to (4) of section 20822
3317.012 of the Revised Code. 20823

(2) The sum of the amounts calculated under divisions 20824

(C)(2)(a) and (b) of this section: 20825

(a) For each of the district's students reported under 20826
division (B)(2)(c) of this section as enrolled in a community 20827
school in grades one through twelve and receiving special 20828
education and related services pursuant to an IEP for a handicap 20829
described in section 3317.013 of the Revised Code, the product of 20830
the applicable special education weight times the community 20831
school's base formula amount; 20832

(b) For each of the district's students reported under 20833
division (B)(2)(c) of this section as enrolled in kindergarten in 20834
a community school and receiving special education and related 20835
services pursuant to an IEP for a handicap described in section 20836
3317.013 of the Revised Code, one-half of the amount calculated as 20837
prescribed in division (C)(2)(a) of this section. 20838

(3) For each of the district's students reported under 20839
division (B)(2)(d) of this section for whom payment is made under 20840
division (D)(4) of this section, the amount of that payment; 20841

(4) An amount equal to the sum of the amounts obtained when, 20842
for each community school where the district's students are 20843
enrolled, the number of the district's students enrolled in that 20844
community school who are included in the district's ~~DPIA~~ poverty 20845
student count is multiplied by the per pupil amount of 20846
~~disadvantaged pupil impact aid~~ poverty-based assistance the school 20847
district receives that year pursuant to division (B) or (C) of 20848
section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ 20849
poverty-based assistance reduction factor of that community 20850
school. If the district receives ~~disadvantaged pupil impact aid~~ 20851
poverty-based assistance under division (B) of that section, the 20852
per pupil amount of that aid is the quotient of the amount the 20853
district received under that division divided by the district's 20854
~~DPIA~~ poverty student count, as defined in that section. If the 20855

district receives ~~disadvantaged pupil impact aid~~ poverty-based 20856
assistance under division (C) of section 3317.029 of the Revised 20857
Code, the per pupil amount of that aid is the per pupil dollar 20858
amount prescribed for the district in ~~division~~ divisions (C)(1) ~~or~~ 20859
~~(2)~~ (3) of that section. 20860

(5) An amount equal to the sum of the amounts obtained when, 20861
for each community school where the district's students are 20862
enrolled, the district's per pupil amount of aid received under 20863
division (E) of section 3317.029 of the Revised Code, as adjusted 20864
by any ~~DPIA~~ poverty-based assistance reduction factor of the 20865
community school, is multiplied by the sum of the following: 20866

(a) The number of the district's students reported under 20867
division (B)(2)(a) of this section who are enrolled in grades one 20868
to three in that community school and who are not receiving 20869
special education and related services pursuant to an IEP; 20870

(b) One-half of the district's students who are enrolled in 20871
all-day or any other kindergarten class in that community school 20872
and who are not receiving special education and related services 20873
pursuant to an IEP; 20874

(c) One-half of the district's students who are enrolled in 20875
all-day kindergarten in that community school and who are not 20876
receiving special education and related services pursuant to an 20877
IEP. 20878

The district's per pupil amount of aid under division (E) of 20879
section 3317.029 of the Revised Code is the quotient of the amount 20880
the district received under that division divided by the 20881
district's kindergarten through third grade ADM, as defined in 20882
that section. 20883

(6) An amount equal to the sum of the amounts obtained when, 20884
for each community school where the district's students are 20885
enrolled, the district's per pupil amount received under division 20886

(F) of section 3317.029 of the Revised Code, as adjusted by any 20887
poverty-based assistance reduction factor of that community 20888
school, is multiplied by the number of the district's students 20889
enrolled in the community school who are identified as 20890
limited-English proficient. 20891

The district's per pupil amount under division (F) of section 20892
3317.029 of the Revised Code is the amount calculated under 20893
division (F)(1) or (2) of that section, times a multiple of 0.50 20894
in fiscal year 2006 and 1.0 in fiscal year 2007. 20895

(7) An amount equal to the sum of the amounts obtained when, 20896
for each community school where the district's students are 20897
enrolled, the district's per pupil amount received under division 20898
(G) of section 3317.029 of the Revised Code, as adjusted by any 20899
poverty-based assistance reduction factor of that community 20900
school, is multiplied by the sum of the following: 20901

(a) The number of the district's students enrolled in grades 20902
one through twelve in that community school; 20903

(b) One-half of the number of the district's students 20904
enrolled in kindergarten in that community school. 20905

The district's per pupil amount under division (G) of section 20906
3317.029 of the Revised Code is the district's amount per teacher 20907
calculated under division (G)(1) or (2) of that section divided by 20908
17, times a multiple of 0.50 in fiscal year 2006 and 1.0 in fiscal 20909
year 2007. 20910

(8) An amount equal to the sum of the amounts obtained when, 20911
for each community school where the district's students are 20912
enrolled, the district's per pupil amount received under divisions 20913
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 20914
by any poverty-based assistance reduction factor of that community 20915
school, is multiplied by the sum of the following: 20916

(a) The number of the district's students enrolled in grades 20917

one through twelve in that community school; 20918

(b) One-half of the number of the district's students 20919
enrolled in kindergarten in that community school. 20920

The district's per pupil amount under divisions (H) and (I) 20921
of section 3317.029 of the Revised Code is the amount calculated 20922
under each division divided by the district's formula ADM, as 20923
defined in section 3317.02 of the Revised Code. 20924

(9) An amount equal to the per pupil state parity aid funding 20925
calculated for the school district under either division (C) or 20926
(D) of section 3317.0217 of the Revised Code multiplied by the sum 20927
of the number of students in grades one through twelve, and 20928
one-half of the number of students in kindergarten, who are 20929
entitled to attend school in the district and are enrolled in a 20930
community school as reported under division (B)(1) of this 20931
section. 20932

(D) The department shall annually pay to a community school 20933
established under this chapter the sum of the amounts described in 20934
divisions (D)(1) to ~~(7)~~(10) of this section. However, the 20935
department shall calculate and pay to each internet- or 20936
computer-based community school only the amounts described in 20937
divisions (D)(1) to (3) of this section. Furthermore, the sum of 20938
the payments to all community schools under divisions (D)(1), (2), 20939
and (4), ~~(5), (6), and (7)~~ to (10) of this section for the 20940
students entitled to attend school in any particular school 20941
district shall not exceed the sum of that district's SF-3 payment 20942
and its payment under sections 321.24 and 323.156 of the Revised 20943
Code. If the sum of the payments calculated under those divisions 20944
for the students entitled to attend school in a particular school 20945
district exceeds the sum of that district's SF-3 payment and its 20946
payment under sections 321.24 and 323.156 of the Revised Code, the 20947
department shall calculate and apply a proration factor to the 20948

payments to all community schools under those divisions for the 20949
students entitled to attend school in that district. 20950

(1) An amount equal to the sum of the amounts obtained when 20951
the number of students enrolled in grades one through twelve, plus 20952
one-half of the kindergarten students in the school, reported 20953
under divisions (B)(2)(a), (b), and (e) of this section who are 20954
not receiving special education and related services pursuant to 20955
an IEP for a handicap described in section 3317.013 of the Revised 20956
Code is multiplied by the greater of the following: 20957

(a) The community school's fiscal year 2005 base formula 20958
amount, as adjusted by the fiscal year 2005 cost-of-doing-business 20959
factor of the school district in which the student is entitled to 20960
attend school; 20961

(b) The sum of the community school's current base formula 20962
amount plus the per pupil amount of the base funding supplements 20963
specified in divisions (C)(1) to (4) of section 3317.012 of the 20964
Revised Code. 20965

(2) The greater of the following: 20966

(a) The aggregate amount that the department paid to the 20967
community school in fiscal year 1999 for students receiving 20968
special education and related services pursuant to IEPs, excluding 20969
federal funds and state disadvantaged pupil impact aid funds; 20970

(b) The sum of the amounts calculated under divisions 20971
(D)(2)(b)(i) and (ii) of this section: 20972

(i) For each student reported under division (B)(2)(c) of 20973
this section as enrolled in the school in grades one through 20974
twelve and receiving special education and related services 20975
pursuant to an IEP for a handicap described in section 3317.013 of 20976
the Revised Code, the following amount: 20977

[the greater of (the community school's fiscal year 2005 base 20978
formula amount 20979

X the fiscal year 2005 cost-of-doing-business factor 20980
of the district where the student 20981
is entitled to attend school) or (the current formula amount plus 20982
the per pupil amount of the base funding supplements specified in 20983
divisions (C)(1) to (4) of section 3317.012 of the Revised Code)] 20984
+ 20985
(the applicable special education weight X 20986
the community school's base formula amount); 20987

(ii) For each student reported under division (B)(2)(c) of 20988
this section as enrolled in kindergarten and receiving special 20989
education and related services pursuant to an IEP for a handicap 20990
described in section 3317.013 of the Revised Code, one-half of the 20991
amount calculated under the formula prescribed in division 20992
(D)(2)(b)(i) of this section. 20993

(3) An amount received from federal funds to provide special 20994
education and related services to students in the community 20995
school, as determined by the superintendent of public instruction. 20996

(4) For each student reported under division (B)(2)(d) of 20997
this section as enrolled in vocational education programs or 20998
classes that are described in section 3317.014 of the Revised 20999
Code, are provided by the community school, and are comparable as 21000
determined by the superintendent of public instruction to school 21001
district vocational education programs and classes eligible for 21002
state weighted funding under section 3317.014 of the Revised Code, 21003
an amount equal to the applicable vocational education weight 21004
times the community school's base formula amount times the 21005
percentage of time the student spends in the vocational education 21006
programs or classes. 21007

(5) An amount equal to the sum of the amounts obtained when, 21008
for each school district where the community school's students are 21009
entitled to attend school, the number of that district's students 21010
enrolled in the community school who are included in the 21011

district's ~~DPIA~~ poverty student count is multiplied by the per 21012
pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based 21013
assistance that school district receives that year pursuant to 21014
division (B) or (C) of section 3317.029 of the Revised Code, as 21015
adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of 21016
the community school. The per pupil amount of aid shall be 21017
determined as described in division (C)(4) of this section. 21018

(6) An amount equal to the sum of the amounts obtained when, 21019
for each school district where the community school's students are 21020
entitled to attend school, the district's per pupil amount of aid 21021
received under division (E) of section 3317.029 of the Revised 21022
Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction 21023
factor of the community school, is multiplied by the sum of the 21024
following: 21025

(a) The number of the district's students reported under 21026
division (B)(2)(a) of this section who are enrolled in grades one 21027
to three in that community school and who are not receiving 21028
special education and related services pursuant to an IEP; 21029

(b) One-half of the district's students who are enrolled in 21030
all-day or any other kindergarten class in that community school 21031
and who are not receiving special education and related services 21032
pursuant to an IEP; 21033

(c) One-half of the district's students who are enrolled in 21034
all-day kindergarten in that community school and who are not 21035
receiving special education and related services pursuant to an 21036
IEP. 21037

The district's per pupil amount of aid under division (E) of 21038
section 3317.029 of the Revised Code shall be determined as 21039
described in division (C)(5) of this section. 21040

(7) An amount equal to the sum of the amounts obtained when, 21041
for each school district where the community school's students are 21042

entitled to attend school, the number of that district's students 21043
enrolled in the community school who are identified as 21044
limited-English proficient is multiplied by the district's per 21045
pupil amount received under division (F) of section 3317.029 of 21046
the Revised Code, as adjusted by any poverty-based assistance 21047
reduction factor of the community school. 21048

The district's per pupil amount under division (F) of section 21049
3317.029 of the Revised Code shall be determined as described in 21050
division (C)(6) of this section. 21051

(8) An amount equal to the sum of the amounts obtained when, 21052
for each school district where the community school's students are 21053
entitled to attend school, the district's per pupil amount 21054
received under division (G) of section 3317.029 of the Revised 21055
Code, as adjusted by any poverty-based assistance reduction factor 21056
of the community school, is multiplied by the sum of the 21057
following: 21058

(a) The number of the district's students enrolled in grades 21059
one through twelve in that community school; 21060

(b) One-half of the number of the district's students 21061
enrolled in kindergarten in that community school. 21062

The district's per pupil amount under division (G) of section 21063
3317.029 of the Revised Code shall be determined as described in 21064
division (C)(7) of this section. 21065

(9) An amount equal to the sum of the amounts obtained when, 21066
for each school district where the community school's students are 21067
entitled to attend school, the district's per pupil amount 21068
received under divisions (H) and (I) of section 3317.029 of the 21069
Revised Code, as adjusted by any poverty-based assistance 21070
reduction factor of the community school, is multiplied by the sum 21071
of the following: 21072

(a) The number of the district's students enrolled in grades 21073

one through twelve in that community school; 21074

(b) One-half of the number of the district's students 21075
enrolled in kindergarten in that community school. 21076

The district's per pupil amount under divisions (H) and (I) 21077
of section 3317.029 of the Revised Code shall be determined as 21078
described in division (C)(8) of this section. 21079

(10) An amount equal to the sum of the amounts obtained when, 21080
for each school district where the community school's students are 21081
entitled to attend school, the district's per pupil amount of 21082
state parity aid funding calculated under either division (C) or 21083
(D) of section 3317.0217 of the Revised Code is multiplied by the 21084
sum of the number of that district's students enrolled in grades 21085
one through twelve, and one-half of the number of that district's 21086
students enrolled in kindergarten, in the community school as 21087
reported under division (B)(2)(a) and (b) of this section. 21088

(E)(1) If a community school's costs for a fiscal year for a 21089
student receiving special education and related services pursuant 21090
to an IEP for a handicap described in divisions (B) to (F) of 21091
section 3317.013 of the Revised Code exceed the threshold 21092
catastrophic cost for serving the student as specified in division 21093
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 21094
submit to the superintendent of public instruction documentation, 21095
as prescribed by the superintendent, of all its costs for that 21096
student. Upon submission of documentation for a student of the 21097
type and in the manner prescribed, the department shall pay to the 21098
community school an amount equal to the school's costs for the 21099
student in excess of the threshold catastrophic costs. 21100

(2) The community school shall only report under division 21101
(E)(1) of this section, and the department shall only pay for, the 21102
costs of educational expenses and the related services provided to 21103
the student in accordance with the student's individualized 21104

education program. Any legal fees, court costs, or other costs 21105
associated with any cause of action relating to the student may 21106
not be included in the amount. 21107

(F) A community school may apply to the department of 21108
education for preschool handicapped or gifted unit funding the 21109
school would receive if it were a school district. Upon request of 21110
its governing authority, a community school that received unit 21111
funding as a school district-operated school before it became a 21112
community school shall retain any units awarded to it as a school 21113
district-operated school provided the school continues to meet 21114
eligibility standards for the unit. 21115

A community school shall be considered a school district and 21116
its governing authority shall be considered a board of education 21117
for the purpose of applying to any state or federal agency for 21118
grants that a school district may receive under federal or state 21119
law or any appropriations act of the general assembly. The 21120
governing authority of a community school may apply to any private 21121
entity for additional funds. 21122

(G) A board of education sponsoring a community school may 21123
utilize local funds to make enhancement grants to the school or 21124
may agree, either as part of the contract or separately, to 21125
provide any specific services to the community school at no cost 21126
to the school. 21127

(H) A community school may not levy taxes or issue bonds 21128
secured by tax revenues. 21129

(I) No community school shall charge tuition for the 21130
enrollment of any student. 21131

(J)(1)(a) A community school may borrow money to pay any 21132
necessary and actual expenses of the school in anticipation of the 21133
receipt of any portion of the payments to be received by the 21134
school pursuant to division (D) of this section. The school may 21135

issue notes to evidence such borrowing. The proceeds of the notes 21136
shall be used only for the purposes for which the anticipated 21137
receipts may be lawfully expended by the school. 21138

(b) A school may also borrow money for a term not to exceed 21139
fifteen years for the purpose of acquiring facilities. 21140

(2) Except for any amount guaranteed under section 3318.50 of 21141
the Revised Code, the state is not liable for debt incurred by the 21142
governing authority of a community school. 21143

(K) For purposes of determining the number of students for 21144
which divisions (D)(5) and (6) of this section applies in any 21145
school year, a community school may submit to the department of 21146
job and family services, no later than the first day of March, a 21147
list of the students enrolled in the school. For each student on 21148
the list, the community school shall indicate the student's name, 21149
address, and date of birth and the school district where the 21150
student is entitled to attend school. Upon receipt of a list under 21151
this division, the department of job and family services shall 21152
determine, for each school district where one or more students on 21153
the list is entitled to attend school, the number of students 21154
residing in that school district who were included in the 21155
department's report under section 3317.10 of the Revised Code. The 21156
department shall make this determination on the basis of 21157
information readily available to it. Upon making this 21158
determination and no later than ninety days after submission of 21159
the list by the community school, the department shall report to 21160
the state department of education the number of students on the 21161
list who reside in each school district who were included in the 21162
department's report under section 3317.10 of the Revised Code. In 21163
complying with this division, the department of job and family 21164
services shall not report to the state department of education any 21165
personally identifiable information on any student. 21166

(L) The department of education shall adjust the amounts 21167
subtracted and paid under divisions (C) and (D) of this section to 21168
reflect any enrollment of students in community schools for less 21169
than the equivalent of a full school year. The state board of 21170
education within ninety days after April 8, 2003, shall adopt in 21171
accordance with Chapter 119. of the Revised Code rules governing 21172
the payments to community schools under this section including 21173
initial payments in a school year and adjustments and reductions 21174
made in subsequent periodic payments to community schools and 21175
corresponding deductions from school district accounts as provided 21176
under divisions (C) and (D) of this section. For purposes of this 21177
section: 21178

(1) A student shall be considered enrolled in the community 21179
school for any portion of the school year the student is 21180
participating at a college under Chapter 3365. of the Revised 21181
Code. 21182

(2) A student shall be considered to be enrolled in a 21183
community school during a school year for the period of time 21184
~~between~~ beginning on the later of the date on which the school 21185
both has received documentation of the student's enrollment from a 21186
parent and the student has commenced participation in learning 21187
opportunities as defined in the contract with the sponsor, or 21188
thirty days prior to the date on which the student is entered into 21189
the education management information system established under 21190
section 3301.0714 of the Revised Code. For purposes of applying 21191
this division to a community school student, "learning 21192
opportunities" shall be defined in the contract, which shall 21193
describe both classroom-based and non-classroom-based learning 21194
opportunities and shall be in compliance with criteria and 21195
documentation requirements for student participation which shall 21196
be established by the department. Any student's instruction time 21197
in non-classroom-based learning opportunities shall be certified 21198

by an employee of the community school. A student's enrollment 21199
shall be considered to cease on the date on which any of the 21200
following occur: 21201

(a) The community school receives documentation from a parent 21202
terminating enrollment of the student. 21203

(b) The community school is provided documentation of a 21204
student's enrollment in another public or private school. 21205

(c) The community school ceases to offer learning 21206
opportunities to the student pursuant to the terms of the contract 21207
with the sponsor or the operation of any provision of this 21208
chapter. 21209

(3) A student's percentage of full-time equivalency shall be 21210
considered to be the percentage the hours of learning opportunity 21211
offered to that student is of nine hundred and twenty hours. 21212
However, no internet- or computer-based community school shall be 21213
credited for any time a student spends participating in learning 21214
opportunities beyond ten hours within any period of twenty-four 21215
consecutive hours. 21216

(M) The department of education shall reduce the amounts paid 21217
under division (D) of this section to reflect payments made to 21218
colleges under division (B) of section 3365.07 of the Revised 21219
Code. 21220

(N)(1) No student shall be considered enrolled in any 21221
internet- or computer-based community school or, if applicable to 21222
the student, in any community school subject to division (C) of 21223
section 3314.22 of the Revised Code, unless both of the following 21224
conditions are satisfied: 21225

(a) The student possesses or has been provided with all 21226
required hardware and software materials and all such materials 21227
are operational so that the student is capable of fully 21228
participating in the learning opportunities specified in the 21229

contract between the school and the school's sponsor as required 21230
by division (A)(23) of section 3314.03 of the Revised Code; 21231

(b) The school is in compliance with division (A)(1) or (2) 21232
of section ~~3314.032~~ 3314.22 of the Revised Code, relative to such 21233
student. 21234

(2) In accordance with policies adopted jointly by the 21235
superintendent of public instruction and the auditor of state, the 21236
department shall reduce the amounts otherwise payable under 21237
division (D) of this section to any ~~internet or computer based~~ 21238
community school that includes in its program the provision of 21239
computer hardware and software materials to ~~each~~ any student, if 21240
such hardware and software materials have not been delivered, 21241
installed, and activated for ~~all students~~ each such student in a 21242
timely manner or other educational materials or services have not 21243
been provided according to the contract between the individual 21244
community school and its sponsor. 21245

The superintendent of public instruction and the auditor of 21246
state shall jointly establish a method for auditing any community 21247
school to which this division pertains to ensure compliance with 21248
this section. 21249

The superintendent, auditor of state, and the governor shall 21250
jointly make recommendations to the general assembly for 21251
legislative changes that may be required to assure fiscal and 21252
academic accountability for such ~~internet or computer based~~ 21253
schools. 21254

(O)(1) If the department determines that a review of a 21255
community school's enrollment is necessary, such review shall be 21256
completed and written notice of the findings shall be provided to 21257
the governing authority of the community school and its sponsor 21258
within ninety days of the end of the community school's fiscal 21259
year, unless extended for a period not to exceed thirty additional 21260

days for one of the following reasons:	21261
(a) The department and the community school mutually agree to the extension.	21262 21263
(b) Delays in data submission caused by either a community school or its sponsor.	21264 21265
(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:	21266 21267 21268 21269 21270
(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.	21271 21272 21273
(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.	21274 21275 21276 21277
(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.	21278 21279 21280 21281
(d) Any decision made by the board under this division is final.	21282 21283
(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.	21284 21285 21286 21287
<u>Sec. 3314.084. (A) As used in this section:</u>	21288
<u>(1) "Formula ADM" has the same meaning as in section 3317.03</u>	21289

<u>of the Revised Code.</u>	21290
<u>(2) "Home" has the same meaning as in section 3313.64 of the Revised Code.</u>	21291
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<u>(3) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code; however, a community school established under this chapter is not a "school district of residence" for purposes of this section.</u>	21293
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<u>(B) Notwithstanding anything to the contrary in section 3314.08 or 3317.03 of the Revised Code, all of the following apply in the case of a child who is enrolled in a community school and is also living in a home:</u>	21297
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<u>(1) For purposes of the report required under division (B)(1) of section 3314.08 of the Revised Code, the child's school district of residence, and not the school district in which the home that the child is living in is located, shall be considered to be the school district in which the child is entitled to attend school. That school district of residence, therefore, shall make the report required under division (B)(1) of section 3314.08 of the Revised Code with respect to the child.</u>	21301
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<u>(2) For purposes of the report required under division (B)(2) of section 3314.08 of the Revised Code, the community school shall report the name of the child's school district of residence.</u>	21309
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<u>(3) The child's school district of residence shall count the child in that district's formula ADM.</u>	21312
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<u>(4) The school district in which the home that the child is living in is located shall not count the child in that district's formula ADM.</u>	21314
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<u>(5) The Department of Education shall deduct the applicable amounts prescribed under division (C) of section 3314.08 and division (D) of section 3314.13 of the Revised Code from the</u>	21317
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child's school district of residence and shall not deduct those 21320
amounts from the school district in which the home that the child 21321
is living in is located. 21322

(6) The Department shall make the payments prescribed in 21323
divisions (D) and (E) of section 3314.08 and section 3314.13 of 21324
the Revised Code, as applicable, to the community school. 21325

Sec. 3314.12. On or before the first day of November each 21326
year, the sponsor of each community school established under this 21327
chapter shall submit to the department of education, in accordance 21328
with guidelines adopted by the department for purposes of this 21329
section, a report that describes the special education and related 21330
services provided by that school to enrolled students during the 21331
previous fiscal year and the school's expenditures for those 21332
services. 21333

Sec. 3314.13. (A) As used in this section: 21334

(1) "All-day kindergarten" has the same meaning as in section 21335
3317.029 of the Revised Code. 21336

(2) "Formula amount" has the same meaning as in section 21337
3317.02 of the Revised Code. 21338

(B) The Except as provided in division (C) of this section, 21339
the department of education annually shall pay each community 21340
school established under this chapter one-half of the formula 21341
amount for each student to whom both of the following apply: 21342

(1) The student is entitled to attend school under section 21343
3313.64 or 3313.65 of the Revised Code in a school district that 21344
is eligible to receive a payment under division (D) of section 21345
3317.029 of the Revised Code if it provides all-day kindergarten; 21346

(2) The student is reported by the community school as 21347
enrolled in all-day kindergarten at the community school. 21348

(C) The department shall make no payments under this section to any internet- or computer-based community school. 21349
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(D) If a student for whom payment is made under division (B) 21351
of this section is entitled to attend school in a district that 21352
receives any payment for all-day kindergarten under division (D) 21353
of section 3317.029 of the Revised Code, the department shall 21354
deduct the payment to the community school under this section from 21355
the amount paid that school district under that division. If that 21356
school district does not receive payment for all-day kindergarten 21357
under that division because it does not provide all-day 21358
kindergarten, the department shall pay the community school from 21359
state funds appropriated generally for ~~disadvantaged pupil impact~~ 21360
~~aid~~ poverty-based assistance to school districts. 21361

~~(D)~~(E) The department shall adjust the amounts deducted from 21362
school districts and paid to community schools under this section 21363
to reflect any enrollments of students in all-day kindergarten in 21364
community schools for less than the equivalent of a full school 21365
year. 21366

Sec. 3314.18. Each community school established under this 21367
chapter shall participate in project SOAR implemented by battelle 21368
for kids for the purpose of collecting information on the amount 21369
of student academic growth attributable to the instruction 21370
provided by the school. Each community school shall comply with 21371
all requirements for participation in project SOAR, including the 21372
administration of tests and the submission of student performance 21373
data. The department of education shall negotiate the cost of 21374
community school participation in project SOAR with battelle for 21375
kids and shall pay the cost of that participation directly to 21376
battelle for kids. No community school shall be required to 21377
contribute to the cost of its participation in project SOAR under 21378
this section. 21379

~~Sec. 3314.031~~ 3314.21. (A) As used in this section: 21380

(1) "Harmful to juveniles" has the same meaning as in section 21381
2907.01 of the Revised Code. 21382

(2) "Obscene" has the same meaning as in division (F) of 21383
section 2907.01 of the Revised Code as that division has been 21384
construed by the supreme court of this state. 21385

(3) "Teacher of record" means a teacher who evaluates the 21386
work of a student. 21387

(B) ~~It is the intent of the general assembly that teachers 21388
employed by internet- or computer-based community schools conduct 21389
visits with their students in person throughout the school year 21390~~

(1) Each internet- or computer-based community school shall retain 21391
an affiliation with at least one full-time teacher of record 21392
licensed in accordance with division (A)(10) of section 3314.03 of 21393
the Revised Code and shall not rely exclusively on teachers 21394
engaged by any person or company from which the school has 21395
purchased its curriculum. 21396

(2) No teacher of record shall serve more than one hundred 21397
twenty-five students enrolled in the internet- or computer-based 21398
community school that has retained that teacher. 21399

(3) Each internet- or computer-based community school shall 21400
provide each student enrolled in the school with an in-person 21401
visit with a teacher, licensed in accordance with division (A)(10) 21402
of section 3314.03 of the Revised Code, for not less than one hour 21403
after every two hundred thirty hours of learning opportunities 21404
provided to that student by the school. 21405

(C) For any internet- or computer-based community school, the 21406
contract between the sponsor and the governing authority of the 21407
school described in section 3314.03 of the Revised Code shall 21408
specify each of the following: 21409

(1) A requirement that the school use a filtering device or 21410
install filtering software that protects against internet access 21411
to materials that are obscene or harmful to juveniles on each 21412
computer provided to students for instructional use. The school 21413
shall provide such device or software at no cost to any student 21414
who works primarily from the student's residence on a computer 21415
obtained from a source other than the school. 21416

(2) A plan for fulfilling the ~~intent of the general assembly~~ 21417
requirement specified in division (B)(3) of this section. The plan 21418
shall indicate the number of times teachers will visit each 21419
student throughout the school year and the manner in which those 21420
visits will be conducted. 21421

(3) That the school will set up a central base of operation 21422
and the sponsor will maintain a representative within fifty miles 21423
of that base of operation to provide monitoring and assistance. 21424

Sec. ~~3314.032~~ 3314.22. (A)(1) Each child enrolled in an 21425
internet- or computer-based community school is entitled to a 21426
computer supplied by the school. In no case shall an internet- or 21427
computer-based community school provide a stipend or other 21428
substitute to an enrolled child or the child's parent in lieu of 21429
supplying a computer to the child. 21430

(2) Notwithstanding division (A)(1) of this section, if more 21431
than one child living in a single ~~household~~ residence is enrolled 21432
in an internet- or computer-based community school, at the option 21433
of the parent of those children, the school may supply less than 21434
one computer per child, as long as at least one computer is 21435
supplied to the ~~household~~ residence. The parent may amend the 21436
decision to accept less than one computer per child anytime during 21437
the school year, and, in such case, within thirty days after the 21438
parent notifies the school of such amendment, the school shall 21439
provide any additional computers requested by the parent up to the 21440

number necessary to comply with division (A)(1) of this section. 21441

(B) Each internet- or computer-based community school shall 21442
provide to each parent who is considering enrolling the parent's 21443
child in the school and to the parent of each child already 21444
enrolled in the school a written notice of the provisions 21445
prescribed in divisions (A)(1) and (2) of this section. 21446

(C) If a community school that is not an internet- or 21447
computer-based community school provides any of its enrolled 21448
students with nonclassroom-based learning opportunities provided 21449
via an internet- or other computer-based instructional method and 21450
requires such students to participate in any of those learning 21451
opportunities from their residences, the school shall be subject 21452
to this section and division (C)(1) of section 3314.21 of the 21453
Revised Code relative to each such student in the same manner as 21454
an internet- or computer-based community school. 21455

Sec. ~~3314.033~~ 3314.23. (A) Not later than ~~September 30, 2003~~ 21456
~~June 30, 2006~~, the state board of education shall ~~recommend to the~~ 21457
~~general assembly~~ adopt rules in accordance with Chapter 119. of 21458
the Revised Code establishing standards governing the operation of 21459
internet- or computer-based community schools, as defined in 21460
~~section 3314.02 of the Revised Code~~, and other educational courses 21461
delivered primarily via electronic media. The standards adopted by 21462
rule under this division may be the same standards recommended to 21463
the general assembly pursuant to the version of section 3314.033 21464
of the Revised Code in effect prior to the effective date of this 21465
amendment. 21466

(B) Each internet- or computer-based community school in 21467
operation on or after the effective date of this amendment shall 21468
comply with the rules adopted by the state board under division 21469
(A) of this section regardless of whether the school's contract 21470
with its sponsor contains a stipulation requiring compliance with 21471

those rules.

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Sec. ~~3314.034~~ 3314.24. (A) On or after July 1, 2004, no internet- or computer-based community school shall enter into a contract with a nonpublic school to use or rent any facility space at the nonpublic school for the provision of instructional services to students enrolled in the internet- or computer-based community school.

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(B) If, on or after July 1, 2004, an internet- or computer-based community school has a contract with a nonpublic school as described in division (A) of this section, the department of education shall not make any payments under section 3314.08 of the Revised Code to the internet- or computer-based community school for any student who is enrolled in the internet- or computer-based community school and receives any instructional services from the internet- or computer-based community school at the nonpublic school.

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Sec. 3314.25. Each internet- or computer-based community school shall provide its students a location within a fifty-mile radius of the student's residence at which to complete the statewide achievement tests and diagnostic assessments prescribed under sections 3301.079 and 3301.0710 of the Revised Code.

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Sec. 3314.26. Each internet- or computer-based community school shall withdraw from the school any student who has failed to participate in the spring administration of any test prescribed under section 3301.0710 or 3301.0712 of the Revised Code for two consecutive school years. The school shall not reenroll that student earlier than one full school year after the student was withdrawn from the school under this section.

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Sec. 3314.27. No student enrolled in an internet- or

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computer-based community school may participate in more than ten 21501
hours of learning opportunities in any period of twenty-four 21502
consecutive hours. Any time such a student participates in 21503
learning opportunities beyond the limit prescribed in this section 21504
shall not count toward the annual minimum number of hours required 21505
to be provided to that student as prescribed in division 21506
(A)(11)(a) of section 3314.03 of the Revised Code. If any 21507
internet- or computer-based community school requires its students 21508
to participate in learning opportunities on the basis of days 21509
rather than hours, one day shall consist of a minimum of five 21510
hours of such participation. 21511

Sec. 3314.28. (A) Each internet- or computer-based community 21512
school established under this chapter shall submit to the school's 21513
sponsor a plan for providing special education and related 21514
services to disabled students enrolled in the school in accordance 21515
with division (A)(1) or (2) of this section. 21516

(1) If the school was established prior to the effective date 21517
of this section, the plan shall be submitted to the sponsor on or 21518
before September 1, 2005, and on or before the first day of 21519
September in each year thereafter that the school is in operation. 21520

(2) If the school is established after the effective date of 21521
this section, the plan shall be submitted to the sponsor prior to 21522
the school's receipt of its first payment under this chapter and 21523
on or before the first day of September in each year thereafter 21524
that the school is in operation. 21525

(B) Within thirty days after receiving the plan prescribed in 21526
division (A) of this section, the sponsor of each internet- or 21527
computer-based community school shall certify all of the following 21528
to the department of education: 21529

(1) A statement of whether the plan received is satisfactory 21530

<u>to the sponsor;</u>	21531
<u>(2) If the plan received is not satisfactory to the sponsor,</u>	21532
<u>the sponsor's assurance that it will promptly assist the school in</u>	21533
<u>developing a plan that is satisfactory to the sponsor;</u>	21534
<u>(3) The sponsor's assurance that it will monitor the</u>	21535
<u>implementation of the plan;</u>	21536
<u>(4) The sponsor's assurance that it will take any necessary</u>	21537
<u>corrective action to ensure that the school's plan is properly and</u>	21538
<u>fully implemented.</u>	21539
<u>(C) The department shall develop guidelines for the content</u>	21540
<u>and format of the plan required under this section.</u>	21541
<u>Sec. 3314.35. (A) This section applies to any community</u>	21542
<u>school established under this chapter that meets one or more of</u>	21543
<u>the following criteria:</u>	21544
<u>(1) The school is declared to be in need of continuous</u>	21545
<u>improvement, under an academic watch, or in a state of academic</u>	21546
<u>emergency pursuant to section 3302.03 of the Revised Code.</u>	21547
<u>(2) The school has not been in operation for at least two</u>	21548
<u>full school years.</u>	21549
<u>(3) The school does not offer any grade level for which an</u>	21550
<u>achievement test is prescribed under section 3301.0710 of the</u>	21551
<u>Revised Code or the number of students enrolled in each grade</u>	21552
<u>level offered by the school for which an achievement test is</u>	21553
<u>prescribed is too small to yield statistically reliable data about</u>	21554
<u>student performance, as determined by the department of education.</u>	21555
<u>(B) Beginning in the 2006-2007 school year, each community</u>	21556
<u>school to which this section applies shall administer a reading</u>	21557
<u>and mathematics assessment approved by the department in the fall</u>	21558
<u>and spring of the school year to each student who is enrolled in</u>	21559

any of grades one through twelve to measure the academic progress 21560
made by students during the school year. For each grade level, the 21561
community school shall administer the same assessment in the 21562
spring that the school administers in the fall. 21563

(C) Each community school that administers the assessments 21564
required by division (B) of this section shall be responsible for 21565
all costs associated with the administration and scoring of the 21566
assessments. Each community school shall report the scores of all 21567
students taking the assessments to the department in a manner 21568
prescribed by the department. 21569

(D) The department shall establish a list of nationally 21570
normed assessments in reading and mathematics that it approves for 21571
use by community schools under this section. The department may 21572
approve assessments in other subject areas, but no community 21573
school shall be required to administer an assessment in a subject 21574
area other than reading or mathematics under this section. 21575

(E) The sponsor of any community school to which this section 21576
does not apply may elect to have the school administer reading and 21577
mathematics assessments in accordance with this section. 21578

Sec. 3314.36. (A) Not later than July 1, 2006, the state 21579
board of education shall adopt rules establishing reasonable 21580
standards for expected gains in student achievement between the 21581
fall and spring administrations of the reading and mathematics 21582
assessments administered under section 3314.35 of the Revised Code 21583
and for expected gains in the graduation rate. The standards may 21584
establish different levels of expected gains to correspond with 21585
differences in the baseline academic achievement levels of the 21586
students being assessed. 21587

(B) Any community school that is declared to be under an 21588
academic watch or in a state of academic emergency pursuant to 21589

section 3302.03 of the Revised Code after July 1, 2006, or to 21590
which division (A)(3) of section 3314.35 of the Revised Code 21591
applies shall be subject to division (C) of this section if either 21592
of the following apply to the school: 21593

(1) The percentage of the school's total student population 21594
showing the expected gains in student achievement established 21595
under division (A) of this section on the reading or mathematics 21596
assessments administered most recently under section 3314.35 of 21597
the Revised Code is less than the following, as applicable: 21598

(a) Fifty-five per cent for any school that has been in 21599
operation for two school years; 21600

(b) Sixty per cent for any school that has been in operation 21601
for three school years; 21602

(c) Sixty-five per cent for any school that has been in 21603
operation for four or more school years. 21604

(2) The school offers a high school diploma but is not 21605
showing the expected gains in the graduation rate established 21606
under division (A) of this section. 21607

A community school that has been in operation for one school 21608
year shall not be subject to division (C) of this section. 21609

(C)(1) In the first school year that a community school is 21610
subject to division (C) of this section, the school shall develop 21611
and implement an improvement plan to address the school's poor 21612
academic performance. The sponsor of the school shall assist in 21613
the development of the improvement plan and shall approve the plan 21614
prior to implementation. The school shall file a copy of the 21615
improvement plan with the department of education. 21616

(2) In the second consecutive school year that a community 21617
school is subject to division (C) of this section, the sponsor of 21618
the school shall pay to the department one-half of the total 21619

amount of the payments made by the school's governing authority to 21620
the sponsor under division (C) of section 3314.03 of the Revised 21621
Code for the school year or five thousand dollars, whichever is 21622
greater. 21623

(3) In the third consecutive school year that a community 21624
school is subject to division (C) of this section, all of the 21625
following shall occur: 21626

(a) The school shall be permanently closed at the conclusion 21627
of the school year. 21628

(b) The sponsor of the school shall pay to the department the 21629
total amount of the payments made by the school's governing 21630
authority to the sponsor under division (C) of section 3314.03 of 21631
the Revised Code for the school year. 21632

(c) The limit on the number of schools with which the sponsor 21633
may enter into a contract for sponsorship under division (B)(1) of 21634
section 3314.015 of the Revised Code shall be decreased by one. 21635

(D) The sponsor of any community school that is declared to 21636
be in need of continuous improvement, effective, or excellent 21637
pursuant to section 3302.03 of the Revised Code and offers one or 21638
more grade levels for which an achievement test is prescribed 21639
under section 3301.0710 of the Revised Code may elect to evaluate 21640
the performance of the school in accordance with division (B) of 21641
this section, provided the school administers reading and 21642
mathematics assessments under section 3314.35 of the Revised Code. 21643
If the sponsor so elects, the evaluation method shall be used for 21644
a minimum of three school years and shall be specified in the 21645
contract required by section 3314.03 of the Revised Code. Nothing 21646
in this division requires the sponsor of a community school that 21647
elects to evaluate the school in accordance with division (B) of 21648
this section to take any action specified in division (C) of this 21649
section, unless the contract requires such action. 21650

(E) In calculating the gains in student achievement 21651
demonstrated by a community school for the purposes of division 21652
(B) of this section, the department shall include the scores of 21653
all students who participated in the fall and spring 21654
administrations of the assessments administered under section 21655
3314.35 of the Revised Code. If the school's participation rate 21656
for any grade level is less than ninety-five per cent, the 21657
department shall calculate the gains in academic achievement 21658
demonstrated by the students in that grade level as if the 21659
participation rate was ninety-five per cent by assuming a score of 21660
zero for each student that it is necessary to add to the 21661
participation rate to make that rate equal ninety-five per cent. 21662

Sec. 3315.17. (A) The board of education of each city, 21663
exempted village, local, and joint vocational school district 21664
shall establish a textbook and instructional materials fund. Each 21665
board annually shall deposit into that fund an amount derived from 21666
revenues received by the district for operating expenses that is 21667
equal to three per cent of the formula amount for the preceding 21668
fiscal year, as defined in section 3317.02 of the Revised Code, or 21669
another percentage if established by the auditor of state under 21670
division (C) of this section, multiplied by the district's student 21671
population for the preceding fiscal year. Money in the fund shall 21672
be used solely for textbooks, instructional software, and 21673
instructional materials, supplies, and equipment. Any money in the 21674
fund that is not used in any fiscal year shall carry forward to 21675
the next fiscal year. 21676

(B)(1) Notwithstanding division (A) of this section, if in a 21677
fiscal year a district board deposits in the textbook and 21678
instructional materials fund an amount of money greater than the 21679
amount required to be deposited by this section or the rules 21680
adopted under division (C) of this section, the board may deduct 21681

the excess amount of money from the amount of money required to be 21682
deposited in succeeding fiscal years. 21683

(2) Notwithstanding division (A) of this section, in any year 21684
a district is in fiscal emergency status as declared pursuant to 21685
section 3316.03 of the Revised Code, the district may deposit an 21686
amount less than required by division (A) of this section, or make 21687
no deposit, into the district textbook and instructional materials 21688
fund for that year. 21689

(C) The state superintendent of public instruction and the 21690
auditor of state jointly shall adopt rules in accordance with 21691
Chapter 119. of the Revised Code defining what constitutes 21692
textbooks, instructional software, and instructional materials, 21693
supplies, and equipment for which money in a school district's 21694
textbook and instructional materials fund may be used. The auditor 21695
of state also may designate a percentage, other than three per 21696
cent, of the formula amount multiplied by the district's student 21697
population that must be deposited into the fund. 21698

(D) Notwithstanding division (A) of this section, a district 21699
board of education in any fiscal year may appropriate money in the 21700
district textbook and instructional materials fund for purposes 21701
other than those permitted by that division if both of the 21702
following occur during that fiscal year: 21703

(1) All of the following certify to the district board in 21704
writing that the district has sufficient textbooks, instructional 21705
software, and instructional materials, supplies, and equipment to 21706
ensure a thorough and efficient education within the district: 21707

(a) The district superintendent; 21708

(b) In districts required to have a business advisory 21709
council, a person designated by vote of the business advisory 21710
council; 21711

(c) If the district teachers are represented by an exclusive 21712

bargaining representative for purposes of Chapter 4117. of the 21713
Revised Code, the president of that organization or the 21714
president's designee. 21715

(2) The district board adopts, by unanimous vote of all 21716
members of the board, a resolution stating that the district has 21717
sufficient textbooks, instructional software, and instructional 21718
materials, supplies, and equipment to ensure a thorough and 21719
efficient education within the district. 21720

(E) Notwithstanding any provision to the contrary in Chapter 21721
4117. of the Revised Code, the requirements of this section 21722
prevail over any conflicting provisions of agreements between 21723
employee organizations and public employers entered into on or 21724
after November 21, 1997. 21725

(F) As used in this section and in section 3315.18 of the 21726
Revised Code, "student population" means the average, daily, 21727
full-time-equivalent number of students in kindergarten through 21728
twelfth grade receiving any educational services from the school 21729
district during the first full school week in October, excluding 21730
students enrolled in adult education classes, but including all of 21731
the following: 21732

(1) Adjacent or other district students enrolled in the 21733
district under an open enrollment policy pursuant to section 21734
3313.98 of the Revised Code; 21735

(2) Students receiving services in the district pursuant to a 21736
compact, cooperative education agreement, or a contract, but who 21737
are entitled to attend school in another district pursuant to 21738
section 3313.64 or 3313.65 of the Revised Code; 21739

(3) Students for whom tuition is payable pursuant to sections 21740
3317.081 and 3323.141 of the Revised Code. 21741

The department of education shall determine a district's 21742

student population using data reported to it under section 3317.03 21743
of the Revised Code for the applicable fiscal year. 21744

Sec. 3315.18. (A) The board of education of each city, 21745
exempted village, local, and joint vocational school district 21746
shall establish a capital and maintenance fund. Each board 21747
annually shall deposit into that fund an amount derived from 21748
revenues received by the district that would otherwise have been 21749
deposited in the general fund that is equal to three per cent of 21750
the formula amount for the preceding fiscal year, as defined in 21751
section 3317.02 of the Revised Code, or another percentage if 21752
established by the auditor of state under division (B) of this 21753
section, multiplied by the district's student population for the 21754
preceding fiscal year, except that money received from a permanent 21755
improvement levy authorized by section 5705.21 of the Revised Code 21756
may replace general revenue moneys in meeting the requirements of 21757
this section. Money in the fund shall be used solely for 21758
acquisition, replacement, enhancement, maintenance, or repair of 21759
permanent improvements, as that term is defined in section 5705.01 21760
of the Revised Code. Any money in the fund that is not used in any 21761
fiscal year shall carry forward to the next fiscal year. 21762

(B) The state superintendent of public instruction and the 21763
auditor of state jointly shall adopt rules in accordance with 21764
Chapter 119. of the Revised Code defining what constitutes 21765
expenditures permitted by division (A) of this section. The 21766
auditor of state may designate a percentage, other than three per 21767
cent, of the formula amount multiplied by the district's student 21768
population that must be deposited into the fund. 21769

(C) Within its capital and maintenance fund, a school 21770
district board of education may establish a separate account 21771
solely for the purpose of depositing funds transferred from the 21772
district's reserve balance account established under former 21773

division (H) of section 5705.29 of the Revised Code. After ~~the~~ 21774
~~effective date of this amendment~~ April 10, 2001, a board may 21775
deposit all or part of the funds formerly included in such reserve 21776
balance account in the separate account established under this 21777
section. Funds deposited in this separate account and interest on 21778
such funds shall be utilized solely for the purpose of providing 21779
the district's portion of the basic project costs of any project 21780
undertaken in accordance with Chapter 3318. of the Revised Code. 21781

(D) Notwithstanding division (A) of this section, in any year 21782
a district is in fiscal emergency status as declared pursuant to 21783
section 3316.03 of the Revised Code, the district may deposit an 21784
amount less than required by division (A) of this section, or make 21785
no deposit, into the district capital and maintenance fund for 21786
that year. 21787

(E) Notwithstanding any provision to the contrary in Chapter 21788
4117. of the Revised Code, the requirements of this section 21789
prevail over any conflicting provisions of agreements between 21790
employee organizations and public employers entered into after 21791
November 21, 1997. 21792

Sec. 3315.37. The board of education of a school district may 21793
establish a teacher education loan program and may expend school 21794
funds for the program. The program shall be for the purpose of 21795
making loans to students who are residents of the school district 21796
or graduates of schools in the school district, who are enrolled 21797
in teacher preparation programs at institutions approved by the 21798
state board pursuant to section 3319.23 of the Revised Code, and 21799
who indicate an intent to teach in the school district providing 21800
the loan. The district board may forgive the obligation to repay 21801
any or all of the principal and interest on the loan if the 21802
borrower teaches in that school district. 21803

The district board shall adopt rules establishing eligibility 21804

criteria, application procedures, procedures for review of 21805
applications, loan amounts, interest, repayment schedules, 21806
conditions under which principal and interest obligations incurred 21807
under the program will be forgiven, and any other matter 21808
incidental to the operation of the program. 21809

The board may contract with a private, nonprofit foundation, 21810
one or more institutions of higher education, or other educational 21811
agencies to administer the program. 21812

The receipt of a loan under this section does not affect a 21813
student's eligibility for assistance, or the amount of such 21814
assistance, granted under section 3315.33, 3333.12, 3333.122, 21815
3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised 21816
Code, but the board's rules may provide for taking such assistance 21817
into consideration when determining a student's eligibility for a 21818
loan under this section. 21819

Sec. 3316.043. Upon the approval by the superintendent of 21820
public instruction of an initial financial plan under section 21821
3316.04 of the Revised Code or a financial recovery plan under 21822
section 3316.06 of the Revised Code, the board of education of the 21823
school district for which the plan was approved shall revise the 21824
district's five-year projection of revenues and expenditures in 21825
accordance with rules adopted under section 5705.391 of the 21826
Revised Code so that the five-year projection is consistent with 21827
the financial plan or financial recovery plan. In the case of a 21828
school district declared to be in a state of fiscal emergency, the 21829
five-year projection shall be revised by the financial planning 21830
and supervision commission for that district. 21831

Sec. 3316.06. (A) Within one hundred twenty days after the 21832
first meeting of a school district financial planning and 21833
supervision commission, the commission shall adopt a financial 21834

recovery plan regarding the school district for which the 21835
commission was created. During the formulation of the plan, the 21836
commission shall seek appropriate input from the school district 21837
board and from the community. This plan shall contain the 21838
following: 21839

(1) Actions to be taken to: 21840

(a) Eliminate all fiscal emergency conditions declared to 21841
exist pursuant to division (B) of section 3316.03 of the Revised 21842
Code; 21843

(b) Satisfy any judgments, past-due accounts payable, and all 21844
past-due and payable payroll and fringe benefits; 21845

(c) Eliminate the deficits in all deficit funds, except that 21846
any prior year deficits in the textbook and instructional 21847
materials fund established pursuant to section 3315.17 of the 21848
Revised Code and the capital and maintenance fund established 21849
pursuant to section 3315.18 of the Revised Code shall be forgiven; 21850

(d) Restore to special funds any moneys from such funds that 21851
were used for purposes not within the purposes of such funds, or 21852
borrowed from such funds by the purchase of debt obligations of 21853
the school district with the moneys of such funds, or missing from 21854
the special funds and not accounted for, if any; 21855

(e) Balance the budget, avoid future deficits in any funds, 21856
and maintain on a current basis payments of payroll, fringe 21857
benefits, and all accounts; 21858

(f) Avoid any fiscal emergency condition in the future; 21859

(g) Restore the ability of the school district to market 21860
long-term general obligation bonds under provisions of law 21861
applicable to school districts generally. 21862

(2) The management structure that will enable the school 21863
district to take the actions enumerated in division (A)(1) of this 21864

section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21,

5748.02, or 5748.08 of the Revised Code, that is not a renewal or replacement levy and that will provide new operating revenue. 21897
21898
Notwithstanding any provision of Chapter 133. or sections 3313.483 21899
to 3313.4811 of the Revised Code, following the required approval 21900
of the district voters and with the approval of the commission, 21901
the school district may issue securities to evidence the 21902
restructuring or refinancing. Those securities may extend the 21903
original period for repayment, not to exceed ten years, and may 21904
alter the frequency and amount of repayments, interest or other 21905
financing charges, and other terms of agreements under which the 21906
debt originally was contracted, at the discretion of the 21907
commission, provided that any loans received pursuant to section 21908
3313.483 of the Revised Code shall be paid from funds the district 21909
would otherwise receive under sections 3317.022 to 3317.025 of the 21910
Revised Code, as required under division (E)(3) of section 21911
3313.483 of the Revised Code. The securities issued for the 21912
purpose of restructuring or refinancing the debt shall be repaid 21913
in equal payments and at equal intervals over the term of the debt 21914
and are not eligible to be included in any subsequent proposal for 21915
the purpose of restructuring or refinancing debt under this 21916
section. 21917

(B) Any financial recovery plan may be amended subsequent to 21918
its adoption. Each financial recovery plan shall be updated 21919
annually. 21920

(C) Each school district financial planning and supervision 21921
commission shall submit the financial recovery plan it adopts or 21922
updates under this section to the state superintendent of public 21923
instruction for approval immediately following its adoption or 21924
updating. The state superintendent shall evaluate the plan and 21925
either approve or disapprove it within thirty calendar days from 21926
the date of its submission. If the plan is disapproved, the state 21927
superintendent shall recommend modifications that will render it 21928

acceptable. No financial planning and supervision commission shall 21929
implement a financial recovery plan that is adopted or updated on 21930
or after ~~the effective date of this amendment~~ April 10, 2001, 21931
unless the state superintendent has approved it. 21932

Sec. 3316.16. (A) A school district financial planning and 21933
supervision commission, with respect to its functions under this 21934
chapter, shall continue in existence until such time as a 21935
determination is made under division (B) of this section that all 21936
of the following have occurred: 21937

(1) An effective financial accounting and reporting system in 21938
accordance with section 3316.10 of the Revised Code is in the 21939
process of being implemented, and it is reasonably expected that 21940
this implementation will be completed within two years. 21941

(2) All of the fiscal emergency conditions determined 21942
pursuant to division (B) of section 3316.03 of the Revised Code 21943
have been corrected or eliminated, and no new fiscal emergency 21944
conditions have occurred. 21945

(3) The objectives of the financial recovery plan described 21946
in section 3316.06 of the Revised Code are being met. 21947

(4) The school district board has prepared a financial 21948
forecast for a five-year period in accordance with the standards 21949
issued by the auditor of state and an opinion has been rendered by 21950
the auditor of state that the financial forecast is considered to 21951
be nonadverse. The forecast shall display the district's projected 21952
compliance with sections 3315.17 and 3315.18 of the Revised Code 21953
beginning in the year the commission is proposed for termination. 21954

(B) The determination that all conditions listed in division 21955
(A) of this section for the termination of the existence of the 21956
commission and its functions exist may be made either by the 21957
auditor of state or by the commission and shall be certified to 21958

the commission, the auditor of state, the governor, the director
of budget and management, and the budget commission, whereupon
such commission and its functions under this chapter shall
terminate. This determination shall be made by the auditor of
state upon the filing with the auditor of state of a written
request for such a determination by the school district board, the
governor, or the commission, or may be made by the auditor of
state upon the auditor of state's own initiative.

(C) The commission shall prepare and submit at the time of
such certification a final report of its activities, in such form
as is appropriate for the purpose of providing a record of its
activities and assisting other commissions created under this
chapter in the conduct of their functions. All of the books and
records of the commission shall be delivered to the auditor of
state for retention and safekeeping.

(D) Upon receipt of the certification provided for in
division (B) of this section, the director of budget and
management shall follow the procedures set forth in section 126.29
of the Revised Code.

(E) If, at the time of termination of the commission, an
effective financial accounting and reporting system has not been
fully implemented, the auditor of state shall monitor the progress
of implementation and shall exercise authority under this section
and Chapter 117. of the Revised Code to secure full implementation
at the earliest time feasible but within two years after such
termination.

Sec. 3317.01. As used in this section and section 3317.011 of
the Revised Code, "school district," unless otherwise specified,
means any city, local, exempted village, joint vocational, or
cooperative education school district and any educational service
center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Annually, the department of education shall calculate and report to each school district the district's total state and local funds for providing an adequate basic education to the district's nonhandicapped students, utilizing the determination in section 3317.012 of the Revised Code. In addition, the department shall calculate and report separately for each school district the district's total state and local funds for providing an adequate education for its handicapped students, utilizing the determinations in both sections 3317.012 and 3317.013 of the Revised Code.

Not later than the thirty-first day of August of each fiscal year, the department of education shall provide to each school district and county MR/DD board a preliminary estimate of the amount of funding that the department calculates the district will receive under each of divisions (C)(1) and (4) of section 3317.022 of the Revised Code. No later than the first day of December of each fiscal year, the department shall update that preliminary estimate.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June.

The moneys appropriated for each fiscal year shall be distributed 22021
at least monthly to each school district unless otherwise provided 22022
for. The state board shall submit a yearly distribution plan to 22023
the controlling board at its first meeting in July. The state 22024
board shall submit any proposed midyear revision of the plan to 22025
the controlling board in January. Any year-end revision of the 22026
plan shall be submitted to the controlling board in June. If 22027
moneys appropriated for each fiscal year are distributed other 22028
than monthly, such distribution shall be on the same basis for 22029
each school district. 22030

The total amounts paid each month shall constitute, as nearly 22031
as possible, one-twelfth of the total amount payable for the 22032
entire year. Payments made during the first six months of the 22033
fiscal year may be based on an estimate of the amounts payable for 22034
the entire year. Payments made in the last six months shall be 22035
based on the final calculation of the amounts payable to each 22036
school district for that fiscal year. Payments made in the last 22037
six months may be adjusted, if necessary, to correct the amounts 22038
distributed in the first six months, and to reflect enrollment 22039
increases when such are at least three per cent. Except as 22040
otherwise provided, payments under this chapter shall be made only 22041
to those school districts in which: 22042

(A) The school district, except for any educational service 22043
center and any joint vocational or cooperative education school 22044
district, levies for current operating expenses at least twenty 22045
mills. Levies for joint vocational or cooperative education school 22046
districts or county school financing districts, limited to or to 22047
the extent apportioned to current expenses, shall be included in 22048
this qualification requirement. School district income tax levies 22049
under Chapter 5748. of the Revised Code, limited to or to the 22050
extent apportioned to current operating expenses, shall be 22051
included in this qualification requirement to the extent 22052

determined by the tax commissioner under division (D) of section 22053
3317.021 of the Revised Code. 22054

(B) The school year next preceding the fiscal year for which 22055
such payments are authorized meets the requirement of section 22056
3313.48 or 3313.481 of the Revised Code, with regard to the 22057
minimum number of days or hours school must be open for 22058
instruction with pupils in attendance, for individualized 22059
parent-teacher conference and reporting periods, and for 22060
professional meetings of teachers. This requirement shall be 22061
waived by the superintendent of public instruction if it had been 22062
necessary for a school to be closed because of disease epidemic, 22063
hazardous weather conditions, inoperability of school buses or 22064
other equipment necessary to the school's operation, damage to a 22065
school building, or other temporary circumstances due to utility 22066
failure rendering the school building unfit for school use, 22067
provided that for those school districts operating pursuant to 22068
section 3313.48 of the Revised Code the number of days the school 22069
was actually open for instruction with pupils in attendance and 22070
for individualized parent-teacher conference and reporting periods 22071
is not less than one hundred seventy-five, or for those school 22072
districts operating on a trimester plan the number of days the 22073
school was actually open for instruction with pupils in attendance 22074
not less than seventy-nine days in any trimester, for those school 22075
districts operating on a quarterly plan the number of days the 22076
school was actually open for instruction with pupils in attendance 22077
not less than fifty-nine days in any quarter, or for those school 22078
districts operating on a pentamester plan the number of days the 22079
school was actually open for instruction with pupils in attendance 22080
not less than forty-four days in any pentamester. 22081

A school district shall not be considered to have failed to 22082
comply with this division or section 3313.481 of the Revised Code 22083
because schools were open for instruction but either twelfth grade 22084

students were excused from attendance for up to three days or only 22085
a portion of the kindergarten students were in attendance for up 22086
to three days in order to allow for the gradual orientation to 22087
school of such students. 22088

The superintendent of public instruction shall waive the 22089
requirements of this section with reference to the minimum number 22090
of days or hours school must be in session with pupils in 22091
attendance for the school year succeeding the school year in which 22092
a board of education initiates a plan of operation pursuant to 22093
section 3313.481 of the Revised Code. The minimum requirements of 22094
this section shall again be applicable to such a district 22095
beginning with the school year commencing the second July 22096
succeeding the initiation of one such plan, and for each school 22097
year thereafter. 22098

A school district shall not be considered to have failed to 22099
comply with this division or section 3313.48 or 3313.481 of the 22100
Revised Code because schools were open for instruction but the 22101
length of the regularly scheduled school day, for any number of 22102
days during the school year, was reduced by not more than two 22103
hours due to hazardous weather conditions. 22104

(C) The school district has on file, and is paying in 22105
accordance with, a teachers' salary schedule which complies with 22106
section 3317.13 of the Revised Code. 22107

A board of education or governing board of an educational 22108
service center which has not conformed with other law and the 22109
rules pursuant thereto, shall not participate in the distribution 22110
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 22111
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 22112
and sufficient reason established to the satisfaction of the state 22113
board of education and the state controlling board. 22114

All funds allocated to school districts under this chapter, 22115

except those specifically allocated for other purposes, shall be 22116
used to pay current operating expenses only. 22117

Sec. 3317.012. (A) The general assembly, having deliberated 22118
on the model with which to calculate the base cost of an adequate 22119
education per pupil, has made a policy decision to calculate that 22120
amount as consisting of the following building blocks: 22121

(1) Base classroom teachers; 22122

(2) Other personnel support, which includes additional 22123
teachers, such as music, arts, and physical education teachers 22124
funded by state, local, or federal funds or other funds that are 22125
above the base cost funding level, and other school personnel 22126
including administrators; 22127

(3) Nonpersonnel support. 22128

This model reflects policy decisions made by the general 22129
assembly concerning the cost of base classroom teachers, which 22130
decisions entail two policy variables: the number of students per 22131
base classroom teacher necessary for an adequate education and the 22132
average compensation for a base classroom teacher necessary for an 22133
adequate education. The model requires the general assembly to 22134
decide the amount of other personnel support necessary for an 22135
adequate education, and increase that amount from year to year by 22136
the same percentage as it increases the average compensation for 22137
base classroom teachers. The model finally requires the general 22138
assembly to decide the nonpersonnel costs necessary for an 22139
adequate education and to inflate the nonpersonnel costs from year 22140
to year using the projected inflationary measure for the gross 22141
domestic product deflator (all items) prepared by the bureau of 22142
labor statistics of the United States department of labor. 22143

(B)(1) For fiscal year 2006, the general assembly has 22144
resolved that a ratio of one base classroom teacher per twenty 22145

students is necessary for an adequate education. The general 22146
assembly has made a policy decision that the average compensation 22147
for base classroom teachers is \$53,680 for fiscal year 2006, which 22148
includes an amount for the value of fringe benefits. For fiscal 22149
year 2007, the general assembly has resolved that a ratio of one 22150
base classroom teacher per twenty students is necessary for an 22151
adequate education. The general assembly has made a policy 22152
decision that the average compensation for base classroom teachers 22153
is \$54,941, which includes an amount for the value of fringe 22154
benefits. Based on a ratio of twenty students per base classroom 22155
teacher, these amounts equal \$2,684 per pupil in fiscal year 2006 22156
and \$2,747 per pupil in fiscal year 2007. 22157

(2) The general assembly has made a policy decision that the 22158
per pupil cost of salary and benefits of other personnel support 22159
is \$1,807 in fiscal year 2006. Based on the percentage increase 22160
for the average compensation of base classroom teachers from 22161
fiscal year 2006 to fiscal year 2007, the per pupil cost of other 22162
personnel support is \$1,850 in fiscal year 2007. 22163

(3) The general assembly has made a policy decision that the 22164
per pupil cost of nonpersonnel support is \$792 in fiscal year 2006 22165
and \$806 in fiscal year 2007. The amount for fiscal year 2007 22166
reflects the projected inflationary measure for the gross domestic 22167
product deflator (all items) of 1.80%. 22168

(4) Based on the determinations specified in divisions (B)(1) 22169
to (3) of this section, the per-pupil base cost is \$5,283 in 22170
fiscal year 2006 and \$5,403 in fiscal year 2007. 22171

(C) In addition to the per-pupil base cost as determined 22172
under divisions (A) and (B) of this section, the general assembly 22173
determines that the following base funding supplements shall be 22174
paid to each school district: 22175

(1) Base funding for large-group academic intervention for 22176

all students, phased in, based on 25 hours per group of students 22177
per year at an hourly rate of \$20.00 in fiscal year 2006 and 22178
\$20.40 in fiscal year 2007, as follows: 22179
large-group intervention units X 25 hours X hourly rate X phase-in 22180
percentage 22181

Where: 22182

(a) "Large-group intervention units" equals the district's 22183
formula ADM divided by 20; 22184

(b) "Hourly rate" equals \$20.00 in fiscal year 2006 and 22185
\$20.40 in fiscal year 2007; 22186

(c) "Phase-in percentage" equals 0.25 in fiscal year 2006 and 22187
0.50 in fiscal year 2007. 22188

(2) Base funding for professional development, phased in 22189
according to the following formula: 22190
district's teacher factor X 0.045 X 22191
formula amount X phase-in percentage 22192

Where: 22193

(a) For each school district, the district's "teacher factor" 22194
is the district's formula ADM divided by 17; 22195

(b) "Phase-in percentage" equals 0.25 in fiscal year 2006 and 22196
0.50 in fiscal year 2007. 22197

(3) Base funding for data-based decision making, calculated 22198
according to the following formula: 22199
0.001 X formula amount X formula ADM 22200

(4) Base funding for professional development regarding 22201
data-based decision making, calculated according to the following 22202
formula: 22203
(0.20 X the district's teacher factor X 0.08 X formula amount) + 22204
(the district's principal factor X 22205
0.08 X formula amount) 22206

<u>Where:</u>	22207
<u>(a) For each school district, the district's "teacher factor" is the district's formula ADM divided by 17;</u>	22208 22209
<u>(b) For each school district, the district's "principal factor" is the district's formula ADM divided by 340.</u>	22210 22211
<u>(D) The general assembly intends that school districts spend the state funds calculated and paid for each component of the building blocks methodology described in divisions (B)(1) to (3) and (C)(1) to (4) of this section according to the purposes described in those divisions.</u>	22212 22213 22214 22215 22216
Sec. 3317.013. This section does not apply to handicapped preschool students.	22217 22218
Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:	22219 22220 22221 22222 22223 22224 22225 22226
(A) A multiple of 0.2892 for students whose primary or only identified handicap is a speech and language handicap, as this term is defined pursuant to Chapter 3323. of the Revised Code;	22227 22228 22229
(B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or other health handicapped-minor;	22230 22231 22232 22233
(C) A multiple of 1.7695 for students identified as hearing handicapped, vision impaired, or severe behavior handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised	22234 22235 22236

Code; 22237

(D) A multiple of 2.3646 for students identified as 22238
orthopedically handicapped, as this term is defined pursuant to 22239
Chapter 3323. of the Revised Code or other health handicapped - 22240
major; 22241

(E) A multiple of 3.1129 for students identified as 22242
multihandicapped, as this term is defined pursuant to Chapter 22243
3323. of the Revised Code; 22244

(F) A multiple of 4.7342 for students identified as autistic, 22245
having traumatic brain injuries, or as both visually and hearing 22246
disabled, as these terms are defined pursuant to Chapter 3323. of 22247
the Revised Code. 22248

In fiscal year 2004, the multiples specified in divisions (A) 22249
to (F) of this section shall be adjusted by multiplying them by 22250
0.88. In fiscal ~~year~~ years 2005, 2006, and 2007, the multiples 22251
specified in those divisions shall be adjusted by multiplying them 22252
by 0.90. 22253

Not later than the thirtieth day of May 30, in 2004, and May 22254
30, 2005, 2006, and 2007, the department shall submit to the 22255
office of budget and management a report that specifies for each 22256
city, local, exempted village, and joint vocational school 22257
district the fiscal year allocation of the state and local shares 22258
of special education and related services additional weighted 22259
funding and federal special education funds passed through to the 22260
district. 22261

Sec. 3317.016. In addition to its form SF-3, or any successor 22262
to that form, the department of education shall publish on its web 22263
site a spreadsheet for each school district that specifies the 22264
constituent components of the district's "building blocks" funds, 22265
as follows: 22266

(A) For compensation of base classroom teachers, as described 22267
in division (B)(1) of section 3317.012 of the Revised Code, each 22268
spreadsheet shall specify the district's aggregate and per pupil 22269
amounts of state funds and of combined state and local funds, the 22270
average compensation decided by the general assembly for base 22271
classroom teachers, as specified in that division, and the number 22272
of base classroom teachers attributable to the district based on 22273
the student-teacher ratio decided by the general assembly, as 22274
specified in that division. 22275

(B) Each spreadsheet shall specify the district's aggregate 22276
and per pupil amounts of state funds and of combined state and 22277
local funds for each of the following: 22278

(1) Other personnel support, as described in division (B)(2) 22279
of section 3317.012 of the Revised Code; 22280

(2) Nonpersonnel support, as described in division (B)(3) of 22281
that section; 22282

(3) Academic intervention services, as described in division 22283
(C)(1) of that section; 22284

(4) Professional development, as described in division (C)(2) 22285
of that section; 22286

(5) Data-based decision making, as described in division 22287
(C)(3) of that section; 22288

(6) Professional development for data-based decision making, 22289
as described in division (C)(4) of that section. 22290

(C) Each spreadsheet shall separately specify the district's 22291
aggregate and per pupil state funds for each of the following 22292
components of poverty-based assistance under section 3317.029 of 22293
the Revised Code: 22294

(1) Poverty-based assistance guarantee payment under division 22295
(B) of that section; 22296

<u>(2) Academic intervention funding under division (C) of that section;</u>	22297 22298
<u>(3) All-day kindergarten under division (D) of that section;</u>	22299
<u>(4) Class-size reduction under division (E) of that section;</u>	22300
<u>(5) Services to limited English proficient students under division (F) of that section;</u>	22301 22302
<u>(6) Professional development, under division (G) of that section;</u>	22303 22304
<u>(7) Dropout prevention under division (H) of that section;</u>	22305
<u>(8) Community outreach under division (I) of that section.</u>	22306
<u>Sec. 3317.017. (A) Not later than July 1, 2006, the superintendent of public instruction shall adopt a rule under which the superintendent may issue an order with respect to the spending, by a school district declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code, of the following state building block funds intended to pay instructional-related costs:</u>	22307 22308 22309 22310 22311 22312 22313
<u>(1) State funds for compensation of base classroom teachers, as described in division (B)(1) of section 3317.012 of the Revised Code;</u>	22314 22315 22316
<u>(2) State funds for academic intervention services under division (C)(1) of section 3317.012 and division (C) of section 3317.029 of the Revised Code;</u>	22317 22318 22319
<u>(3) State funds for professional development under divisions (C)(2) and (4) of section 3317.012 and division (G) of section 3317.029 of the Revised Code;</u>	22320 22321 22322
<u>(4) State funds for data based decision making under division (C)(3) of section 3317.012 of the Revised Code;</u>	22323 22324

<u>(5) The poverty-based assistance guarantee payment under</u>	22325
<u>division (B) of section 3317.029 of the Revised Code;</u>	22326
<u>(6) State funds for all-day kindergarten under division (D)</u>	22327
<u>of section 3317.029 of the Revised Code;</u>	22328
<u>(7) State funds for class-size reduction under division (E)</u>	22329
<u>of section 3317.029 of the Revised Code;</u>	22330
<u>(8) State funds for services to limited English proficient</u>	22331
<u>students under division (F) of section 3317.029 of the Revised</u>	22332
<u>Code;</u>	22333
<u>(9) State funds for dropout prevention under division (H) of</u>	22334
<u>section 3317.029 of the Revised Code;</u>	22335
<u>(10) State funds for community outreach under division (I) of</u>	22336
<u>section 3317.029 of the Revised Code.</u>	22337
<u>(B) The rule shall authorize the superintendent of public</u>	22338
<u>instruction to issue an order that does one of or a combination of</u>	22339
<u>the following:</u>	22340
<u>(1) Requires the school district to periodically report to</u>	22341
<u>the superintendent of public instruction on its spending of the</u>	22342
<u>state funds paid for each building blocks component described in</u>	22343
<u>divisions (A)(1) to (10) of this section;</u>	22344
<u>(2) Requires the district to establish a separate account for</u>	22345
<u>each of the building blocks components described in divisions</u>	22346
<u>(A)(1) to (10) of this section to which the district shall credit</u>	22347
<u>the state funds paid for each;</u>	22348
<u>(3) Directs the district's spending of any or all of the</u>	22349
<u>state funds paid for the components described in divisions (A)(1)</u>	22350
<u>to (10) of this section in accordance with the descriptions and</u>	22351
<u>requirements of sections 3317.012 and 3317.029 of the Revised</u>	22352
<u>Code.</u>	22353
<u>(C) The rule shall specify situations in which the</u>	22354

superintendent may issue an order and the types of orders the 22355
superintendent will issue for each of those situations. The rule, 22356
however, shall authorize the superintendent to issue orders in 22357
situations that are not enumerated or described in the rule. 22358

(D) The board of education of each school district to which 22359
the superintendent of public instruction issues an order pursuant 22360
to the rule adopted under this section shall comply with that 22361
order. 22362

Sec. 3317.02. As used in this chapter: 22363

(A) Unless otherwise specified, "school district" means city, 22364
local, and exempted village school districts. 22365

(B) "Formula amount" means the base cost for the fiscal year 22366
specified in division (B)(4) of section 3317.012 of the Revised 22367
Code. 22368

(C) "FTE basis" means a count of students based on full-time 22369
equivalency, in accordance with rules adopted by the department of 22370
education pursuant to section 3317.03 of the Revised Code. In 22371
adopting its rules under this division, the department shall 22372
provide for counting any student in category one, two, three, 22373
four, five, or six special education ADM or in category one or two 22374
vocational education ADM in the same proportion the student is 22375
counted in formula ADM. 22376

(D)~~(1)~~ "Formula ADM" means, for a city, local, or exempted 22377
village school district, the number reported pursuant to division 22378
(A) of section 3317.03 of the Revised Code, and for a joint 22379
vocational school district, the number reported pursuant to 22380
division (D) of ~~that~~ section 3317.03 of the Revised Code. 22381

~~(2)~~(E) "Three-year average formula ADM" means the average of 22382
formula ADMs for the current and preceding two fiscal years. 22383
~~However, as applicable in fiscal years 1999 and 2000, the~~ 22384

~~three year average for city, local, and exempted village school 22385
districts shall be determined utilizing the FY 1997 ADM or FY 1998 22386
ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal 22387
years 2000 and 2001, the three year average for joint vocational 22388
school districts shall be determined utilizing the average daily 22389
membership reported in fiscal years 1998 and 1999 under division 22390
(D) of section 3317.03 of the Revised Code in lieu of formula ADM 22391
for fiscal years 1998 and 1999. 22392~~

~~(E) "FY 1997 ADM" or "FY 1998 ADM" means the school 22393
district's average daily membership reported for the applicable 22394
fiscal year under the version of division (A) of section 3317.03 22395
of the Revised Code in effect during that fiscal year, adjusted as 22396
follows: 22397~~

~~(1) Minus the average daily membership of handicapped 22398
preschool children; 22399~~

~~(2) Minus one half of the average daily membership attending 22400
kindergarten; 22401~~

~~(3) Minus three fourths of the average daily membership 22402
attending a joint vocational school district; 22403~~

~~(4) Plus the average daily membership entitled under section 22404
3313.64 or 3313.65 of the Revised Code to attend school in the 22405
district but receiving educational services in approved units from 22406
an educational service center or another school district under a 22407
compact or a cooperative education agreement, as determined by the 22408
department; 22409~~

~~(5) Minus the average daily membership receiving educational 22410
services from the district in approved units but entitled under 22411
section 3313.64 or 3313.65 of the Revised Code to attend school in 22412
another school district, as determined by the department. 22413~~

~~(F)(1) "Category one special education ADM" means the average 22414
daily membership of handicapped children receiving special 22415~~

education services for the handicap specified in division (A) of 22416
section 3317.013 of the Revised Code and reported under division 22417
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 22418

(2) "Category two special education ADM" means the average 22419
daily membership of handicapped children receiving special 22420
education services for those handicaps specified in division (B) 22421
of section 3317.013 of the Revised Code and reported under 22422
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 22423
Code. 22424

(3) "Category three special education ADM" means the average 22425
daily membership of students receiving special education services 22426
for those handicaps specified in division (C) of section 3317.013 22427
of the Revised Code, and reported under division (B)(7) or 22428
(D)(2)(d) of section 3317.03 of the Revised Code. 22429

(4) "Category four special education ADM" means the average 22430
daily membership of students receiving special education services 22431
for those handicaps specified in division (D) of section 3317.013 22432
of the Revised Code and reported under division (B)(8) or 22433
(D)(2)(e) of section 3317.03 of the Revised Code. 22434

(5) "Category five special education ADM" means the average 22435
daily membership of students receiving special education services 22436
for the handicap specified in division (E) of section 3317.013 of 22437
the Revised Code and reported under division (B)(9) or (D)(2)(f) 22438
of section 3317.03 of the Revised Code. 22439

(6) "Category six special education ADM" means the average 22440
daily membership of students receiving special education services 22441
for the handicap specified in division (F) of section 3317.013 of 22442
the Revised Code and reported under division (B)(10) or (D)(2)(g) 22443
of section 3317.03 of the Revised Code. 22444

(7) "Category one vocational education ADM" means the average 22445
daily membership of students receiving vocational education 22446

services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code. 22447
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(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code. 22450
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(G) "Handicapped preschool child" means a handicapped child, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten. 22455
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(H) "County MR/DD board" means a county board of mental retardation and developmental disabilities. 22460
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(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code. 22462
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(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code. 22464
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(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code. 22467
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(L) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property. 22471
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(M) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational 22475
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school district under divisions (A)(1) and (2) of section 3317.021 22477
of the Revised Code. 22478

(N) "Cost-of-doing-business factor for fiscal year 2005" 22479
means the amount indicated in this division for the county in 22480
which a city, local, exempted village, or joint vocational school 22481
district is located. If a city, local, or exempted village school 22482
district is located in more than one county, the factor is the 22483
amount indicated for the county to which the district is assigned 22484
by the state department of education. If a joint vocational school 22485
district is located in more than one county, the factor is the 22486
amount indicated for the county in which the joint vocational 22487
school with the greatest formula ADM operated by the district is 22488
located. 22489

COST-OF-DOING-BUSINESS 22490

COUNTY	FACTOR AMOUNT	
Adams	1.0035	22492
Allen	1.0206	22493
Ashland	1.0297	22494
Ashtabula	1.0397	22495
Athens	1.0014	22496
Auglaize	1.0247	22497
Belmont	1.0064	22498
Brown	1.0177	22499
Butler	1.0646	22500
Carroll	1.0137	22501
Champaign	1.0446	22502
Clark	1.0447	22503
Clermont	1.0541	22504
Clinton	1.0329	22505
Columbiana	1.0214	22506
Coshocton	1.0173	22507
Crawford	1.0164	22508

Cuyahoga	1.0626	22509
Darke	1.0338	22510
Defiance	1.0146	22511
Delaware	1.0528	22512
Erie	1.0388	22513
Fairfield	1.0366	22514
Fayette	1.0319	22515
Franklin	1.0608	22516
Fulton	1.0330	22517
Gallia	1.0000	22518
Geauga	1.0501	22519
Greene	1.0444	22520
Guernsey	1.0066	22521
Hamilton	1.0750	22522
Hancock	1.0215	22523
Hardin	1.0356	22524
Harrison	1.0074	22525
Henry	1.0318	22526
Highland	1.0148	22527
Hocking	1.0188	22528
Holmes	1.0178	22529
Huron	1.0293	22530
Jackson	1.0138	22531
Jefferson	1.0073	22532
Knox	1.0279	22533
Lake	1.0524	22534
Lawrence	1.0081	22535
Licking	1.0381	22536
Logan	1.0385	22537
Lorain	1.0515	22538
Lucas	1.0390	22539
Madison	1.0488	22540
Mahoning	1.0346	22541

Marion	1.0306	22542
Medina	1.0536	22543
Meigs	1.0026	22544
Mercer	1.0203	22545
Miami	1.0411	22546
Monroe	1.0050	22547
Montgomery	1.0453	22548
Morgan	1.0089	22549
Morrow	1.0301	22550
Muskingum	1.0127	22551
Noble	1.0073	22552
Ottawa	1.0486	22553
Paulding	1.0115	22554
Perry	1.0160	22555
Pickaway	1.0391	22556
Pike	1.0103	22557
Portage	1.0472	22558
Preble	1.0442	22559
Putnam	1.0216	22560
Richland	1.0199	22561
Ross	1.0151	22562
Sandusky	1.0321	22563
Scioto	1.0012	22564
Seneca	1.0223	22565
Shelby	1.0278	22566
Stark	1.0255	22567
Summit	1.0542	22568
Trumbull	1.0351	22569
Tuscarawas	1.0089	22570
Union	1.0500	22571
Van Wert	1.0133	22572
Vinton	1.0095	22573
Warren	1.0658	22574

Washington	1.0060	22575
Wayne	1.0348	22576
Williams	1.0228	22577
Wood	1.0360	22578
Wyandot	1.0171	22579

(O) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(P) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(Q) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(R) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(S) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(T) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis. 22605
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(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded. 22607
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(U) A child may be identified as "other health handicapped-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, and if either of the following apply: 22610
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(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001. 22615
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(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child. 22621
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(V) A child may be identified as "other health handicapped-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division (U)(1) or (2) of this section. 22626
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(W) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0216, 3317.0217, 22632
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22635

3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after 22636
making the adjustments required by sections 3313.981 and 3313.979 22637
of the Revised Code, divisions (B), (C), (D), (E), (K), (L), (M), 22638
and (N) of section 3317.023, and division (C) of section 3317.20 22639
of the Revised Code. 22640

Sec. 3317.021. (A) On or before the first day of June of each 22641
year, the tax commissioner shall certify to the department of 22642
education the following information for each city, exempted 22643
village, and local school district, and the information required 22644
by divisions (A)(1) and (2) of this section for each joint 22645
vocational school district, and it shall be used, along with the 22646
information certified under division (B) of this section, in 22647
making the computations for the district under sections 3317.022 22648
and 3317.0217 or section 3317.16 of the Revised Code: 22649

(1) The taxable value of real and public utility real 22650
property in the school district subject to taxation in the 22651
preceding tax year, by class and by county of location; 22652

(2) The taxable value of tangible personal property, 22653
including public utility personal property, subject to taxation by 22654
the district for the preceding tax year; 22655

(3)(a) The total property tax rate and total taxes charged 22656
and payable for the current expenses for the preceding tax year 22657
for each city, local, and exempted village school district, 22658
including the total property tax rate and the total taxes charged 22659
and payable to a joint vocational district for the preceding tax 22660
year that are limited to or to the extent apportioned to current 22661
expenses; 22662

(b) The portion of the amount of taxes charged and payable 22663
reported for each city, local, and exempted village school 22664
district under division (A)(3)(a) of this section excluding those 22665

taxes attributable to a joint vocational school district. 22666

(4) The value of all real and public utility real property in 22667
the school district exempted from taxation minus both of the 22668
following: 22669

(a) The value of real and public utility real property in the 22670
district owned by the United States government and used 22671
exclusively for a public purpose; 22672

(b) The value of real and public utility real property in the 22673
district exempted from taxation under Chapter 725. or 1728. or 22674
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 22675
5709.73, or 5709.78 of the Revised Code. 22676

(5) The total federal adjusted gross income of the residents 22677
of the school district, based on tax returns filed by the 22678
residents of the district, for the most recent year for which this 22679
information is available. 22680

(B) On or before the first day of May each year, the tax 22681
commissioner shall certify to the department of education the 22682
total taxable real property value of railroads and, separately, 22683
the total taxable tangible personal property value of all public 22684
utilities for the preceding tax year, by school district and by 22685
county of location. 22686

(C) If a public utility has properly and timely filed a 22687
petition for reassessment under section 5727.47 of the Revised 22688
Code with respect to an assessment issued under section 5727.23 of 22689
the Revised Code affecting taxable property apportioned by the tax 22690
commissioner to a school district, the taxable value of, and taxes 22691
charged and payable on, public utility tangible personal property 22692
included in the certification under divisions (A)(2), (A)(3), and 22693
(B) of this section for the school district shall include only the 22694
amount of taxable value on the basis of which the public utility 22695
paid tax for the preceding year as provided in division (B)(1) or 22696

(2) of section 5727.47 of the Revised Code for a certification 22697
under divisions (A)(2) and (B) of this section, and shall include 22698
only the amount of taxes charged and payable that the public 22699
utility paid for the preceding year as provided in division (B)(1) 22700
or (2) of section 5727.47 of the Revised Code for a certification 22701
under division (A)(3) of this section. 22702

(D) If on the basis of the information certified under 22703
division (A) of this section, the department determines that any 22704
district fails in any year to meet the qualification requirement 22705
specified in division (A) of section 3317.01 of the Revised Code, 22706
the department shall immediately request the tax commissioner to 22707
determine the extent to which any school district income tax 22708
levied by the district under Chapter 5748. of the Revised Code 22709
shall be included in meeting that requirement. Within five days of 22710
receiving such a request from the department, the tax commissioner 22711
shall make the determination required by this division and report 22712
the quotient obtained under division (D)(3) of this section to the 22713
department. This quotient represents the number of mills that the 22714
department shall include in determining whether the district meets 22715
the qualification requirement of division (A) of section 3317.01 22716
of the Revised Code. 22717

The tax commissioner shall make the determination required by 22718
this division as follows: 22719

(1) Multiply one mill times the total taxable value of the 22720
district as determined in divisions (A)(1) and (2) of this 22721
section; 22722

(2) Estimate the total amount of tax liability for the 22723
current tax year under taxes levied by Chapter 5748. of the 22724
Revised Code that are apportioned to current operating expenses of 22725
the district; 22726

(3) Divide the amount estimated under division (D)(2) of this 22727

section by the product obtained under division (D)(1) of this section. 22728
22729

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, making any adjustment required by division (A)(2) 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. 22730
22731
22732
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22736

(1) Compute the following for each eligible district: 22737

~~[(cost of doing business factor X~~ 22738

the formula amount X 22739

formula ADM) + the sum of the base funding supplements prescribed 22740

in divisions (C)(1) to (4) of section 3317.012 of the Revised 22741

Code] - 22742

(.023 X recognized valuation) 22743

If the difference obtained is a negative number, the district's computation shall be zero. 22744
22745

(2) Compute both of the following for each school district: 22746

(a) The difference of (i) the district's fiscal year 2005 22747

base cost payment under the version of division (A)(1) of this 22748

section in effect in fiscal year 2005, minus (ii) the amount 22749

computed for the district for the current fiscal year under 22750

current division (A)(1) of this section; 22751

(b) The following amount: 22752

[(fiscal year 2005 base cost payment/fiscal year 2005 formula 22753

ADM) X current year formula ADM] minus the amount computed for the 22754

district under current division (A)(1) of this section 22755

If one of the amounts computed under division (A)(2)(a) or 22756

(b) of this section is a positive amount, the department shall pay 22757

the district that amount in addition to the amount calculated 22758
under division (A)(1) of this section. If both amounts are 22759
positive amounts, the department shall pay the district the lesser 22760
of the two amounts in addition to the amount calculated under 22761
division (A)(1) of this section. 22762

(3)(a) For each school district for which the tax exempt 22763
value of the district equals or exceeds twenty-five per cent of 22764
the potential value of the district, the department of education 22765
shall calculate the difference between the district's tax exempt 22766
value and twenty-five per cent of the district's potential value. 22767

(b) For each school district to which division (A)~~(2)~~(3)(a) 22768
of this section applies, the department shall adjust the 22769
recognized valuation used in the calculation under division (A)(1) 22770
of this section by subtracting from it the amount calculated under 22771
division (A)~~(2)~~(3)(a) of this section. 22772

(B) As used in this section: 22773

(1) The "total special education weight" for a district means 22774
the sum of the following amounts: 22775

(a) The district's category one special education ADM 22776
multiplied by the multiple specified in division (A) of section 22777
3317.013 of the Revised Code; 22778

(b) The district's category two special education ADM 22779
multiplied by the multiple specified in division (B) of section 22780
3317.013 of the Revised Code; 22781

(c) The district's category three special education ADM 22782
multiplied by the multiple specified in division (C) of section 22783
3317.013 of the Revised Code; 22784

(d) The district's category four special education ADM 22785
multiplied by the multiple specified in division (D) of section 22786
3317.013 of the Revised Code; 22787

(e) The district's category five special education ADM	22788
multiplied by the multiple specified in division (E) of section	22789
3317.013 of the Revised Code;	22790
(f) The district's category six special education ADM	22791
multiplied by the multiple specified in division (F) of section	22792
3317.013 of the Revised Code.	22793
(2) "State share percentage" means the percentage calculated	22794
for a district as follows:	22795
(a) Calculate the state base cost funding amount for the	22796
district for the fiscal year under division (A) of this section.	22797
If the district would not receive any state base cost funding for	22798
that year under that division, the district's state share	22799
percentage is zero.	22800
(b) If the district would receive state base cost funding	22801
under that division, divide that amount by an amount equal to the	22802
following:	22803
Cost of doing business factor X	22804
<u>(the formula amount X</u>	22805
<u>formula ADM) + the sum of the base funding supplements prescribed</u>	22806
<u>in divisions (C)(1) to (4) of section 3317.012 of the Revised Code</u>	22807
The resultant number is the district's state share	22808
percentage.	22809
(3) "Related services" includes:	22810
(a) Child study, special education supervisors and	22811
coordinators, speech and hearing services, adaptive physical	22812
development services, occupational or physical therapy, teacher	22813
assistants for handicapped children whose handicaps are described	22814
in division (B) of section 3317.013 or division (F)(3) of section	22815
3317.02 of the Revised Code, behavioral intervention, interpreter	22816
services, work study, nursing services, and specialized	22817

integrative services as those terms are defined by the department; 22818

(b) Speech and language services provided to any student with 22819
a handicap, including any student whose primary or only handicap 22820
is a speech and language handicap; 22821

(c) Any related service not specifically covered by other 22822
state funds but specified in federal law, including but not 22823
limited to, audiology and school psychological services; 22824

(d) Any service included in units funded under former 22825
division (0)(1) of section 3317.023 of the Revised Code; 22826

(e) Any other related service needed by handicapped children 22827
in accordance with their individualized education plans. 22828

(4) The "total vocational education weight" for a district 22829
means the sum of the following amounts: 22830

(a) The district's category one vocational education ADM 22831
multiplied by the multiple specified in division (A) of section 22832
3317.014 of the Revised Code; 22833

(b) The district's category two vocational education ADM 22834
multiplied by the multiple specified in division (B) of section 22835
3317.014 of the Revised Code. 22836

(C)(1) The department shall compute and distribute state 22837
special education and related services additional weighted costs 22838
funds to each school district in accordance with the following 22839
formula: 22840

The district's state share percentage 22841
X the formula amount for the year 22842
for which the aid is calculated 22843
X the district's total special education weight 22844

(2) The attributed local share of special education and 22845
related services additional weighted costs equals: 22846

(1 - the district's state share percentage) X 22847

the district's total special education weight X 22848
the formula amount 22849

(3)(a) The department shall compute and pay in accordance 22850
with this division additional state aid to school districts for 22851
students in categories two through six special education ADM. If a 22852
district's costs for the fiscal year for a student in its 22853
categories two through six special education ADM exceed the 22854
threshold catastrophic cost for serving the student, the district 22855
may submit to the superintendent of public instruction 22856
documentation, as prescribed by the superintendent, of all its 22857
costs for that student. Upon submission of documentation for a 22858
student of the type and in the manner prescribed, the department 22859
shall pay to the district an amount equal to the sum of the 22860
following: 22861

(i) One-half of the district's costs for the student in 22862
excess of the threshold catastrophic cost; 22863

(ii) The product of one-half of the district's costs for the 22864
student in excess of the threshold catastrophic cost multiplied by 22865
the district's state share percentage. 22866

(b) For purposes of division (C)(3)(a) of this section, the 22867
threshold catastrophic cost for serving a student equals: 22868

(i) For a student in the school district's category two, 22869
three, four, or five special education ADM, twenty-five thousand 22870
dollars in fiscal year 2002 ~~and~~, twenty-five thousand seven 22871
hundred dollars in fiscal years 2003, 2004, and 2005, and 22872
twenty-six thousand five hundred dollars in fiscal years 2006 and 22873
2007; 22874

(ii) For a student in the district's category six special 22875
education ADM, thirty thousand dollars in fiscal year 2002 ~~and~~, 22876
thirty thousand eight hundred forty dollars in fiscal years 2003, 22877
2004, and 2005, and thirty-one thousand eight hundred dollars in 22878

fiscal years 2006 and 2007. 22879

(c) The district shall only report under division (C)(3)(a) 22880
of this section, and the department shall only pay for, the costs 22881
of educational expenses and the related services provided to the 22882
student in accordance with the student's individualized education 22883
program. Any legal fees, court costs, or other costs associated 22884
with any cause of action relating to the student may not be 22885
included in the amount. 22886

(4)(a) As used in this division, the "personnel allowance" 22887
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 22888
~~and~~, 2005, 2006, and 2007. 22889

(b) For the provision of speech language pathology services 22890
to students, including students who do not have individualized 22891
education programs prepared for them under Chapter 3323. of the 22892
Revised Code, and for no other purpose, the department of 22893
education shall pay each school district an amount calculated 22894
under the following formula: 22895

(formula ADM divided by 2000) X 22896

the personnel allowance X the state share percentage 22897

(5) In any fiscal year, a school district shall spend for 22898
purposes that the department designates as approved for special 22899
education and related services expenses at least the amount 22900
calculated as follows: 22901

~~(cost of doing business factor X~~ 22902

formula amount X the sum of categories 22903
one through six special education ADM) + 22904

(total special education weight X formula amount) 22905

The purposes approved by the department for special education 22906
expenses shall include, but shall not be limited to, 22907
identification of handicapped children, compliance with state 22908
rules governing the education of handicapped children and 22909

prescribing the continuum of program options for handicapped 22910
children, provision of speech language pathology services, and the 22911
portion of the school district's overall administrative and 22912
overhead costs that are attributable to the district's special 22913
education student population. 22914

The department shall require school districts to report data 22915
annually to allow for monitoring compliance with division (C)(5) 22916
of this section. The department shall annually report to the 22917
governor and the general assembly the amount of money spent by 22918
each school district for special education and related services. 22919

(6) In any fiscal year, a school district shall spend for the 22920
provision of speech language pathology services not less than the 22921
sum of the amount calculated under division (C)(1) of this section 22922
for the students in the district's category one special education 22923
ADM and the amount calculated under division (C)(4) of this 22924
section. 22925

(D)(1) As used in this division: 22926

(a) "Daily bus miles per student" equals the number of bus 22927
miles traveled per day, divided by transportation base. 22928

(b) "Transportation base" equals total student count as 22929
defined in section 3301.011 of the Revised Code, minus the number 22930
of students enrolled in preschool handicapped units, plus the 22931
number of nonpublic school students included in transportation 22932
ADM. 22933

(c) "Transported student percentage" equals transportation 22934
ADM divided by transportation base. 22935

(d) "Transportation cost per student" equals total operating 22936
costs for board-owned or contractor-operated school buses divided 22937
by transportation base. 22938

(2) Analysis of student transportation cost data has resulted 22939

in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:

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

The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

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

FISCAL YEAR	PERCENTAGE	
2000	52.5%	22972
2001	55%	22973
2002	57.5%	22974
2003 and thereafter	The greater of 60% or the district's state share percentage	22975

The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula. 22977
22978
22979

(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply: 22980
22981
22982

(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section; 22983
22984
22985

(b) Its district student density is lower than the statewide student density, as those terms are defined in that division. 22986
22987

(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: 22988
22989
22990

(per rough mile subsidy X total rough road miles) X density multiplier 22991
22992

where: 22993

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula: 22994
22995

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$
 22996
22997
22998

(i) "Maximum rough road percentage" means the highest county 22999

rough road percentage in the state. 23000

(ii) "County rough road percentage" equals the percentage of 23001
the mileage of state, municipal, county, and township roads that 23002
is rated by the department of transportation as type A, B, C, E2, 23003
or F in the county in which the school district is located or, if 23004
the district is located in more than one county, the county to 23005
which it is assigned for purposes of determining its 23006
cost-of-doing-business factor. 23007

(iii) "Statewide rough road percentage" means the percentage 23008
of the statewide total mileage of state, municipal, county, and 23009
township roads that is rated as type A, B, C, E2, or F by the 23010
department of transportation. 23011

(b) "Total rough road miles" means a school district's total 23012
bus miles traveled in one year times its county rough road 23013
percentage. 23014

(c) "Density multiplier" means a figure calculated in 23015
accordance with the following formula: 23016

1 - [(minimum student density - district student 23017
density)/(minimum student density - 23018
statewide student density)] 23019

(i) "Minimum student density" means the lowest district 23020
student density in the state. 23021

(ii) "District student density" means a school district's 23022
transportation base divided by the number of square miles in the 23023
district. 23024

(iii) "Statewide student density" means the sum of the 23025
transportation bases for all school districts divided by the sum 23026
of the square miles in all school districts. 23027

(6) In addition to funds paid under divisions (D)(2) to (5) 23028
of this section, each district shall receive in accordance with 23029

rules adopted by the state board of education a payment for 23030
students transported by means other than board-owned or 23031
contractor-operated buses and whose transportation is not funded 23032
under division (J) of section 3317.024 of the Revised Code. The 23033
rules shall include provisions for school district reporting of 23034
such students. 23035

(E)(1) The department shall compute and distribute state 23036
vocational education additional weighted costs funds to each 23037
school district in accordance with the following formula: 23038

state share percentage X 23039
the formula amount X 23040
total vocational education weight 23041

In any fiscal year, a school district receiving funds under 23042
division (E)(1) of this section shall spend those funds only for 23043
the purposes that the department designates as approved for 23044
vocational education expenses. Vocational educational expenses 23045
approved by the department shall include only expenses connected 23046
to the delivery of career-technical programming to 23047
career-technical students. The department shall require the school 23048
district to report data annually so that the department may 23049
monitor the district's compliance with the requirements regarding 23050
the manner in which funding received under division (E)(1) of this 23051
section may be spent. 23052

(2) The department shall compute for each school district 23053
state funds for vocational education associated services in 23054
accordance with the following formula: 23055

state share percentage X .05 X 23056
the formula amount X the sum of categories one and two 23057
vocational education ADM 23058

In any fiscal year, a school district receiving funds under 23059
division (E)(2) of this section, or through a transfer of funds 23060

pursuant to division (L) of section 3317.023 of the Revised Code, 23061
shall spend those funds only for the purposes that the department 23062
designates as approved for vocational education associated 23063
services expenses, which may include such purposes as 23064
apprenticeship coordinators, coordinators for other vocational 23065
education services, vocational evaluation, and other purposes 23066
designated by the department. The department may deny payment 23067
under division (E)(2) of this section to any district that the 23068
department determines is not operating those services or is using 23069
funds paid under division (E)(2) of this section, or through a 23070
transfer of funds pursuant to division (L) of section 3317.023 of 23071
the Revised Code, for other purposes. 23072

(F) The actual local share in any fiscal year for the 23073
combination of special education and related services additional 23074
weighted costs funding calculated under division (C)(1) of this 23075
section, transportation funding calculated under divisions (D)(2) 23076
and (3) of this section, and vocational education and associated 23077
services additional weighted costs funding calculated under 23078
divisions (E)(1) and (2) of this section shall not exceed for any 23079
school district the product of three and three-tenths mills times 23080
the district's recognized valuation. The department annually shall 23081
pay each school district as an excess cost supplement any amount 23082
by which the sum of the district's attributed local shares for 23083
that funding exceeds that product. For purposes of calculating the 23084
excess cost supplement: 23085

(1) The attributed local share for special education and 23086
related services additional weighted costs funding is the amount 23087
specified in division (C)(2) of this section. 23088

(2) The attributed local share of transportation funding 23089
equals the difference of the total amount calculated for the 23090
district using the formula developed under division (D)(2) of this 23091
section minus the actual amount paid to the district after 23092

applying the percentage specified in division (D)(3) of this section. 23093
23094

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows: 23095
23096
23097

(1 - state share percentage) X 23098

[(total vocational education weight X the formula amount) + the payment under division (E)(2) of this section] 23099
23100

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. 23101
23102
23103
23104

As used in this section: 23105

(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. 23106
23107
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(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education. 23110
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(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this section. It shall not include any salary payments for supplemental 23117
23118
23119
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23121
23122

teachers contracts.	23123
(4) "Regular student population" means the formula ADM plus	23124
the number of students reported as enrolled in the district	23125
pursuant to division (A)(1) of section 3313.981 of the Revised	23126
Code; minus the number of students reported under division (A)(2)	23127
of section 3317.03 of the Revised Code; minus the FTE of students	23128
reported under division (B)(6), (7), (8), (9), (10), (11), or (12)	23129
of that section who are enrolled in a vocational education class	23130
or receiving special education; and minus twenty per cent of the	23131
students enrolled concurrently in a joint vocational school	23132
district.	23133
(5) "State share percentage" has the same meaning as in	23134
section 3317.022 of the Revised Code.	23135
(6) "VEPD" means a school district or group of school	23136
districts designated by the department of education as being	23137
responsible for the planning for and provision of vocational	23138
education services to students within the district or group.	23139
(7) "Lead district" means a school district, including a	23140
joint vocational school district, designated by the department as	23141
a VEPD, or designated to provide primary vocational education	23142
leadership within a VEPD composed of a group of districts.	23143
(B) If the district employs less than one full-time	23144
equivalent classroom teacher for each twenty-five pupils in the	23145
regular student population in any school district, deduct the sum	23146
of the amounts obtained from the following computations:	23147
(1) Divide the number of the district's full-time equivalent	23148
classroom teachers employed by one twenty-fifth;	23149
(2) Subtract the quotient in (1) from the district's regular	23150
student population;	23151
(3) Multiply the difference in (2) by seven hundred fifty-two	23152

dollars. 23153

(C) If a positive amount, add one-half of the amount obtained 23154
by multiplying the number of full-time equivalent classroom 23155
teachers by: 23156

(1) The mean annual salary of all full-time equivalent 23157
classroom teachers employed by the district at their respective 23158
training and experience levels minus; 23159

(2) The mean annual salary of all such teachers at their 23160
respective levels in all school districts receiving payments under 23161
this section. 23162

The number of full-time equivalent classroom teachers used in 23163
this computation shall not exceed one twenty-fifth of the 23164
district's regular student population. In calculating the 23165
district's mean salary under this division, those full-time 23166
equivalent classroom teachers with the highest training level 23167
shall be counted first, those with the next highest training level 23168
second, and so on, in descending order. Within the respective 23169
training levels, teachers with the highest years of service shall 23170
be counted first, the next highest years of service second, and so 23171
on, in descending order. 23172

(D) This division does not apply to a school district that 23173
has entered into an agreement under division (A) of section 23174
3313.42 of the Revised Code. Deduct the amount obtained from the 23175
following computations if the district employs fewer than five 23176
full-time equivalent educational service personnel, including 23177
elementary school art, music, and physical education teachers, 23178
counselors, librarians, visiting teachers, school social workers, 23179
and school nurses for each one thousand pupils in the regular 23180
student population: 23181

(1) Divide the number of full-time equivalent educational 23182
service personnel employed by the district by five 23183

one-thousandths;	23184
(2) Subtract the quotient in (1) from the district's regular student population;	23185 23186
(3) Multiply the difference in (2) by ninety-four dollars.	23187
(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code.	23188 23189 23190 23191 23192 23193
(F)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.	23194 23195 23196 23197 23198 23199 23200 23201
(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.	23202 23203 23204 23205
(G) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under section 3317.022 of the Revised Code.	23206 23207 23208 23209 23210
(H) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3)	23211 23212 23213

of section 3313.483 of the Revised Code, deduct an amount equal to 23214
such payments. 23215

(I)(1) If the district is a party to an agreement entered 23216
into under division (D), (E), or (F) of section 3311.06 or 23217
division (B) of section 3311.24 of the Revised Code and is 23218
obligated to make payments to another district under such an 23219
agreement, deduct an amount equal to such payments if the district 23220
school board notifies the department in writing that it wishes to 23221
have such payments deducted. 23222

(2) If the district is entitled to receive payments from 23223
another district that has notified the department to deduct such 23224
payments under division (I)(1) of this section, add the amount of 23225
such payments. 23226

(J) If the district is required to pay an amount of funds to 23227
a cooperative education district pursuant to a provision described 23228
by division (B)(4) of section 3311.52 or division (B)(8) of 23229
section 3311.521 of the Revised Code, deduct such amounts as 23230
provided under that provision and credit those amounts to the 23231
cooperative education district for payment to the district under 23232
division (B)(1) of section 3317.19 of the Revised Code. 23233

(K)(1) If a district is educating a student entitled to 23234
attend school in another district pursuant to a shared education 23235
contract, compact, or cooperative education agreement other than 23236
an agreement entered into pursuant to section 3313.842 of the 23237
Revised Code, credit to that educating district on an FTE basis 23238
both of the following: 23239

(a) An amount equal to the greater of the following: 23240

(i) The fiscal year 2005 formula amount times the fiscal year 23241
2005 cost of doing business factor of the school district where 23242
the student is entitled to attend school pursuant to section 23243
3313.64 or 3313.65 of the Revised Code; 23244

(ii) The sum of the current formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code. 23245
23246
23247

(b) An amount equal to the current formula amount times the state share percentage times any multiple applicable to the student pursuant to section 3317.013 or 3317.014 of the Revised Code. 23248
23249
23250
23251

(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. 23252
23253
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23255

(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. 23256
23257
23258
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23260

(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. 23261
23262
23263
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23265

(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. 23266
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23268

(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 23269
23270
23271
23272
23273
23274
23275

costs. 23276

(N)(1) If the district reports an amount of excess cost for 23277
special education services for a child under division (C) of 23278
section 3323.14 of the Revised Code, the department shall pay that 23279
amount to the district. 23280

(2) If the district reports an amount of excess cost for 23281
special education services for a child under division (C) of 23282
section 3323.14 of the Revised Code, the department shall deduct 23283
that amount from the district of residence of that child. 23284

Sec. 3317.024. In addition to the moneys paid to eligible 23285
school districts pursuant to section 3317.022 of the Revised Code, 23286
moneys appropriated for the education programs in divisions (A) to 23287
(H), (J) to (L), (O), (P), and (R) of this section shall be 23288
distributed to school districts meeting the requirements of 23289
section 3317.01 of the Revised Code; in the case of divisions (J) 23290
and (P) of this section, to educational service centers as 23291
provided in section 3317.11 of the Revised Code; in the case of 23292
divisions (E), (M), and (N) of this section, to county MR/DD 23293
boards; in the case of division (R) of this section, to joint 23294
vocational school districts; in the case of division (K) of this 23295
section, to cooperative education school districts; and in the 23296
case of division (Q) of this section, to the institutions defined 23297
under section 3317.082 of the Revised Code providing elementary or 23298
secondary education programs to children other than children 23299
receiving special education under section 3323.091 of the Revised 23300
Code. The following shall be distributed monthly, quarterly, or 23301
annually as may be determined by the state board of education: 23302

(A) A per pupil amount to each school district that 23303
establishes a summer school remediation program that complies with 23304
rules of the state board of education. 23305

(B) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education.

(C) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.

(D) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(E) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;

(F) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.

(G) In fiscal year 2000 only, an amount to each school district for supplemental salary allowances for each licensed employee except those licensees serving as superintendents, assistant superintendents, principals, or assistant principals, whose term of service in any year is extended beyond the term of service of regular classroom teachers, as described in section

3301.0725 of the Revised Code; 23337

(H) An amount for adult basic literacy education for each 23338
district participating in programs approved by the state board of 23339
education. The amount shall be determined on the basis of 23340
standards adopted by the state board of education. 23341

(I) Notwithstanding section 3317.01 of the Revised Code, but 23342
only until June 30, 1999, to each city, local, and exempted 23343
village school district, an amount for conducting driver education 23344
courses at high schools for which the state board of education 23345
prescribes minimum standards and to joint vocational and 23346
cooperative education school districts and educational service 23347
centers, an amount for conducting driver education courses to 23348
pupils enrolled in a high school for which the state board 23349
prescribes minimum standards. No payments shall be made under this 23350
division after June 30, 1999. 23351

(J) An amount for the approved cost of transporting 23352
~~developmentally handicapped~~ eligible pupils with disabilities 23353
attending a special education program approved by the department 23354
of education whom it is impossible or impractical to transport by 23355
regular school bus in the course of regular route transportation 23356
provided by the district or service center. No district or service 23357
center is eligible to receive a payment under this division for 23358
the cost of transporting any pupil whom it transports by regular 23359
school bus and who is included in the district's transportation 23360
ADM. The state board of education shall establish standards and 23361
guidelines for use by the department of education in determining 23362
the approved cost of such transportation for each district or 23363
service center. 23364

(K) An amount to each school district, including each 23365
cooperative education school district, pursuant to section 3313.81 23366
of the Revised Code to assist in providing free lunches to needy 23367

children and an amount to assist needy school districts in 23368
purchasing necessary equipment for food preparation. The amounts 23369
shall be determined on the basis of rules adopted by the state 23370
board of education. 23371

(L) An amount to each school district, for each pupil 23372
attending a chartered nonpublic elementary or high school within 23373
the district. The amount shall equal the amount appropriated for 23374
the implementation of section 3317.06 of the Revised Code divided 23375
by the average daily membership in grades kindergarten through 23376
twelve in nonpublic elementary and high schools within the state 23377
as determined during the first full week in October of each school 23378
year. 23379

(M) An amount for each county MR/DD board, distributed on the 23380
basis of standards adopted by the state board of education, for 23381
the approved cost of transportation required for children 23382
attending special education programs operated by the county MR/DD 23383
board under section 3323.09 of the Revised Code; 23384

(N) An amount for each county MR/DD board, distributed on the 23385
basis of standards adopted by the state board of education, for 23386
supportive home services for preschool children; 23387

(O) An amount for each school district that establishes a 23388
mentor teacher program that complies with rules of the state board 23389
of education. No school district shall be required to establish or 23390
maintain such a program in any year unless sufficient funds are 23391
appropriated to cover the district's total costs for the program. 23392

(P) An amount to each school district or educational service 23393
center for the total number of gifted units approved pursuant to 23394
section 3317.05 of the Revised Code. The amount for each such unit 23395
shall be the sum of the minimum salary for the teacher of the 23396
unit, calculated on the basis of the teacher's training level and 23397
years of experience pursuant to the salary schedule prescribed in 23398

the version of section 3317.13 of the Revised Code in effect prior 23399
to July 1, 2001, plus fifteen per cent of that minimum salary 23400
amount, plus two thousand six hundred seventy-eight dollars. 23401

(Q) An amount to each institution defined under section 23402
3317.082 of the Revised Code providing elementary or secondary 23403
education to children other than children receiving special 23404
education under section 3323.091 of the Revised Code. This amount 23405
for any institution in any fiscal year shall equal the total of 23406
all tuition amounts required to be paid to the institution under 23407
division (A)(1) of section 3317.082 of the Revised Code. 23408

(R) A grant to each school district and joint vocational 23409
school district that operates a "graduation, reality, and 23410
dual-role skills" (GRADS) program for pregnant and parenting 23411
students that is approved by the department. The amount of the 23412
payment shall be the district's state share percentage, as defined 23413
in section 3317.022 or 3317.16 of the Revised Code, times the 23414
GRADS personnel allowance times the full-time-equivalent number of 23415
GRADS teachers approved by the department. The GRADS personnel 23416
allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 23417
2007. 23418

The state board of education or any other board of education 23419
or governing board may provide for any resident of a district or 23420
educational service center territory any educational service for 23421
which funds are made available to the board by the United States 23422
under the authority of public law, whether such funds come 23423
directly or indirectly from the United States or any agency or 23424
department thereof or through the state or any agency, department, 23425
or political subdivision thereof. 23426

Sec. 3317.026. (A) As used in this section, "refunded taxes" 23427
means taxes charged and payable from real and tangible personal 23428
property, including public utility property, that have been found 23429

to have been overpaid as the result of reductions in the taxable 23430
value of such property and that have been refunded, including any 23431
interest or penalty refunded with those taxes. If taxes are 23432
refunded over a period of time pursuant to division (B)(2), (3), 23433
or (4) of section 319.36 or division (C) of section 5727.471 of 23434
the Revised Code, the total amount of taxes required to be 23435
refunded, excluding any interest accruing after the day the 23436
undertaking is entered into, shall be considered to have been 23437
refunded on the day the first portion of the overpayment is paid 23438
or credited. 23439

(B) Not later than the last day of February each year, each 23440
county auditor shall certify to the tax commissioner, for each 23441
school district in the county, the amount of refunded taxes 23442
refunded in the preceding calendar year and the reductions in 23443
taxable value that resulted in those refunds, except for 23444
reductions in taxable value that previously have been reported to 23445
the tax commissioner on an abstract. If the tax commissioner 23446
determines that the amount of refunded taxes certified for a 23447
school district exceeds three per cent of the total taxes charged 23448
and payable for current expenses of the school district for the 23449
calendar year in which those taxes were refunded, the tax 23450
commissioner shall certify the reductions in taxable value that 23451
resulted in those refunds on or before the first day of June to 23452
the department of education. Upon receiving the certification by 23453
the tax commissioner, the department of education shall reduce the 23454
total taxable value of the school district, as defined in section 23455
3317.02 of the Revised Code, by the total amount of the reductions 23456
in taxable value that resulted in those refunds for the purpose of 23457
computing the ~~state aid~~ SF-3 payment for the school district for 23458
the current fiscal year ~~under section 3317.022 of the Revised~~ 23459
~~Code~~. The increase in the amount of such aid resulting from the 23460
adjustment required by this section shall be paid to the school 23461
district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July 23462

of the ~~current~~ following fiscal year. 23463

If an adjustment is made under this division in the amount of 23464
state aid paid to a school district, the tax value reductions from 23465
which that adjustment results shall not be used in recomputing aid 23466
to a school district under section 3317.027 of the Revised Code. 23467

~~(D)~~(C) If a school district received a grant from the 23468
catastrophic expenditures account pursuant to division (C) of 23469
section 3316.20 of the Revised Code on the basis of the same 23470
circumstances for which an adjustment is made under this section, 23471
the amount of the adjustment shall be reduced and transferred in 23472
accordance with division (C) of section 3316.20 of the Revised 23473
Code. 23474

(D) Not later than the first day of June each year, the tax 23475
commissioner shall certify to the department of education for each 23476
school district the total of the increases in taxable value above 23477
the amount of taxable value on which tax was paid, as provided in 23478
division (B)(1) or (2) of section 5727.47 of the Revised Code, as 23479
determined by the commissioner, and for which a notification was 23480
sent pursuant to section 5727.471 of the Revised Code, in the 23481
preceding calendar year. Upon receiving the certification, the 23482
department shall increase the total taxable value, as defined in 23483
section 3317.02 of the Revised Code, of the school district by the 23484
total amount of the increase in taxable value certified by the 23485
commissioner for the school district for the purpose of computing 23486
the school district's ~~state aid~~ SF-3 payment for the following 23487
fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~ 23488
Code. 23489

Sec. 3317.027. On or before the fifteenth day of May of each 23490
year, the tax commissioner shall certify to the department of 23491
education: 23492

(A) The amount by which applications filed under section 23493

5713.38 of the Revised Code or complaints filed under section 23494
5715.19 of the Revised Code resulted in a reduction in the second 23495
preceding year's taxable value in each school district in which 23496
such a reduction occurred, and the amount by which such reduction 23497
reduced the district's taxes charged and payable for such year; 23498
and 23499

(B) The taxes charged and payable for the second preceding 23500
tax year that were remitted under section 5713.081 of the Revised 23501
Code and the taxable value against which such taxes were imposed. 23502

Upon receipt of such certifications, the department shall 23503
recompute the ~~state aid for such year under section 3317.022 of~~ 23504
~~the Revised Code~~ district's SF-3 payment and determine the amount 23505
~~of aid that~~ the SF-3 payment would have been paid had the taxable 23506
value not been used in the computation made under division (A)(1) 23507
of section 3317.021 of the Revised Code and had the taxes charged 23508
and payable not been included in the certification made under 23509
division (A)(3) of such section. The department shall ~~adjust~~ 23510
calculate the amount that the remainder of the fiscal year's 23511
~~payments so the district's total payments should have been~~ for the 23512
fiscal year ~~equal~~ including the amount of the ~~recomputation~~ SF-3 23513
payment as recomputed. The increase or decrease in the amount of 23514
aid resulting from the adjustment required under this section 23515
shall be paid to the school district on or before the thirty-first 23516
day of July of the following fiscal year. 23517

If a school district received a grant from the catastrophic 23518
expenditures account pursuant to division (C) of section 3316.20 23519
of the Revised Code on the basis of the same circumstances for 23520
which a recomputation is made under this section, the amount of 23521
the recomputation shall be reduced and transferred in accordance 23522
with division (C) of section 3316.20 of the Revised Code. 23523

Sec. 3317.028. (A) On or before the fifteenth day of May in 23524

each calendar year prior to calendar year 2007, the tax 23525
commissioner shall determine for each school district whether the 23526
taxable value of all tangible personal property, including utility 23527
tangible personal property, subject to taxation by the district in 23528
the preceding tax year was less or greater than the taxable value 23529
of such property during the second preceding tax year. If any such 23530
decrease exceeds five per cent of the district's tangible personal 23531
property taxable value included in the total taxable value used in 23532
computing the district's ~~state-aid computation~~ SF-3 payment for 23533
the fiscal year that ends in the current calendar year, or if any 23534
such increase exceeds five per cent of the district's total 23535
taxable value used in computing the district's ~~state-aid~~ 23536
~~computation~~ SF-3 payment for the fiscal year that ends in the 23537
current calendar year, the tax commissioner shall certify both of 23538
the following to the department of education: 23539

(1) The taxable value of the tangible personal property 23540
increase or decrease, including utility tangible personal property 23541
increase or decrease, which shall be considered a change in 23542
valuation; 23543

(2) The decrease or increase in taxes charged and payable on 23544
such change in taxable value calculated in the same manner as in 23545
division (A)(3) of section 3317.021 of the Revised Code. 23546

~~(B) Notwithstanding division (A) of this section, when 23547
determining under that division in calendar year 2002 whether the 23548
taxable value of tangible personal property subject to taxation by 23549
each school district in the preceding tax year was less or greater 23550
than the taxable value of such property during the second 23551
preceding tax year, the tax commissioner shall exclude from the 23552
taxable value for both years the tax value loss, as defined in 23553
section 5727.84 of the Revised Code On or before May 15, 2007, and 23554
the fifteenth day of May in each calendar year thereafter, the tax 23555
commissioner shall determine for each school district whether the 23556~~

taxable value of all utility tangible personal property subject to 23557
taxation by the district in the preceding tax year was less or 23558
greater than the taxable value of such property during the second 23559
preceding tax year. If any decrease exceeds five per cent of the 23560
district's tangible personal property taxable value included in 23561
the total taxable value used in the district's state aid 23562
computation for the fiscal year that ends in the current calendar 23563
year, or if any increase exceeds five per cent of the district's 23564
total taxable value used in the district's state aid computation 23565
for the fiscal year that ends in the current calendar year, the 23566
tax commissioner shall certify both of the following to the 23567
department of education: 23568

(1) The taxable value of the utility tangible personal 23569
property increase or decrease, which shall be considered a change 23570
in valuation; 23571

(2) The decrease or increase in taxes charged and payable on 23572
such change in taxable value calculated in the same manner as in 23573
division (A)(3) of section 3317.021 of the Revised Code. 23574

(C) Upon receipt of such a certification specified in this 23575
section, the department of education shall reduce or increase by 23576
the respective amounts certified, and the taxable value and the 23577
taxes charged and payable that were used in computing the 23578
district's state aid computation under section 3317.022 of the 23579
Revised Code SF-3 payment for the fiscal year that ends in the 23580
current calendar year and shall recompute the state aid SF-3 23581
payment for such fiscal year. During the last six months of the 23582
fiscal year, the The department shall pay the district a sum equal 23583
to one-half of the recomputed payments in lieu of the payments 23584
otherwise required under such sections that section on or before 23585
the thirty-first day of July of the following fiscal year. 23586

(D) If a school district received a grant from the 23587
catastrophic expenditures account pursuant to division (C) of 23588

section 3316.20 of the Revised Code on the basis of the same 23589
circumstances for which a recomputation is made under this 23590
section, the amount of the recomputation shall be reduced and 23591
transferred in accordance with division (C) of section 3316.20 of 23592
the Revised Code. 23593

Sec. 3317.029. (A) As used in this section: 23594

(1) "~~DPIA~~ Poverty percentage" means: 23595

~~(a) In fiscal years prior to fiscal year 2004, the quotient 23596
obtained by dividing the five-year average number of children ages 23597
five to seventeen residing in the school district and living in a 23598
family receiving assistance under the Ohio works first program or 23599
an antecedent program known as TANF or ADC, as certified or 23600
adjusted under section 3317.10 of the Revised Code, by the 23601
district's three-year average formula ADM. 23602~~

~~(b) Beginning in fiscal year 2004, the unduplicated number of 23603
children ages five to seventeen residing in the school district 23604
and living in a family that has family income not exceeding the 23605
federal poverty guidelines and that receives family assistance, as 23606
certified or adjusted under section 3317.10 of the Revised Code, 23607
divided by the district's three year average formula ADM. 23608~~

(2) "~~Family assistance~~" means assistance received under one 23609
of the following: 23610

~~(a) The Ohio works first program; 23611~~

~~(b) The food stamp program; 23612~~

~~(c) The medical assistance program, including the healthy 23613
start program, established under Chapter 5111. of the Revised 23614
Code; 23615~~

~~(d) The children's health insurance program part I 23616
established under section 5101.50 of the Revised Code or, prior to 23617~~

~~fiscal year 2000, an executive order issued under section 107.17~~ 23618
~~of the Revised Code;~~ 23619

~~(e) The disability financial assistance program established~~ 23620
~~under Chapter 5115. of the Revised Code;~~ 23621

~~(f) The disability medical assistance program established~~ 23622
~~under Chapter 5115. of the Revised Code.~~ 23623

~~(3) "Statewide DPIA poverty percentage" means:~~ 23624

~~(a) In fiscal years prior to fiscal year 2004, the five-year~~ 23625
average of the total number of children ages five to seventeen 23626
years residing in the state and receiving assistance under the 23627
Ohio works first program or an antecedent program known as TANF or 23628
ADC, divided by the sum of the three-year average formula ADMs for 23629
all school districts in the state. 23630

~~(b) Beginning in fiscal year 2004, the total unduplicated~~ 23631
~~number of children ages five to seventeen residing in the state~~ 23632
~~and living in a family that has family income not exceeding the~~ 23633
~~federal poverty guidelines and that receives family assistance,~~ 23634
~~divided by the sum of the three year average formula ADMs for all~~ 23635
~~school districts in the state.~~ 23636

~~(4)(3) "DPIA Poverty index" means the quotient obtained by~~ 23637
dividing the school district's DPIA poverty percentage by the 23638
statewide DPIA poverty percentage. 23639

~~(5) "Federal poverty guidelines" has the same meaning as in~~ 23640
~~section 5101.46 of the Revised Code.~~ 23641

~~(6)(4) "DPIA Poverty student count" means:~~ 23642

~~(a) In fiscal years prior to fiscal year 2004, the five-year~~ 23643
average number of children ages five to seventeen residing in the 23644
school district and living in a family receiving assistance under 23645
the Ohio works first program or an antecedent program known as 23646
TANF or ADC, as certified under section 3317.10 of the Revised 23647

Code; 23648

~~(b) Beginning in fiscal year 2004, the unduplicated number of~~ 23649
~~children ages five to seventeen residing in the school district~~ 23650
~~and living in a family that has family income not exceeding the~~ 23651
~~federal poverty guidelines and that receives family assistance, as~~ 23652
~~certified or adjusted under section 3317.10 of the Revised Code.~~ 23653

~~(7)(5)~~ "Kindergarten ADM" means the number of students 23654
reported under section 3317.03 of the Revised Code as enrolled in 23655
kindergarten, excluding any kindergarten students reported under 23656
division (B)(3)(e) or (f) of section 3317.03 of the Revised Code. 23657

~~(8)(6)~~ "Kindergarten through third grade ADM" means the 23658
amount calculated as follows: 23659

(a) Multiply the kindergarten ADM by the sum of one plus the 23660
all-day kindergarten percentage; 23661

(b) Add the number of students in grades one through three; 23662

(c) Subtract from the sum calculated under division (A)(6)(b) 23663
of this section the number of special education students in grades 23664
kindergarten through three. 23665

~~(9) "Statewide average teacher salary" means forty two~~ 23666
~~thousand four hundred sixty nine dollars in fiscal year 2002, and~~ 23667
~~forty three thousand six hundred fifty eight dollars in fiscal~~ 23668
~~year 2003, which includes an amount for the value of fringe~~ 23669
~~benefits.~~ 23670

~~(10)~~ "Kindergarten through third grade ADM" shall not include 23671
any students reported under division (B)(3)(e) or (f) of section 23672
3317.03 of the Revised Code. 23673

(7) "All-day kindergarten" means a kindergarten class that is 23674
in session five days per week for not less than the same number of 23675
clock hours each day as for pupils in grades one through six. 23676

~~(11)(8)~~ "All-day kindergarten percentage" means the 23677

percentage of a district's actual total number of students 23678
enrolled in kindergarten who are enrolled in all-day kindergarten. 23679

~~(12)(9)~~ "Buildings with the highest concentration of need" 23680
means: 23681

~~(a)~~ In fiscal years prior to fiscal year 2004, the school 23682
buildings in a district with percentages of students in grades 23683
kindergarten through three receiving assistance under Ohio works 23684
first at least as high as the district-wide percentage of students 23685
receiving such assistance. 23686

~~(b)~~ Beginning in fiscal year 2004, the school buildings in a 23687
district with percentages of students in grades kindergarten 23688
through three receiving family assistance at least as high as the 23689
district wide percentage of students receiving family assistance. 23690

~~(c)~~ If, in any fiscal year, the information provided by the 23691
department of job and family services under section 3317.10 of the 23692
Revised Code is insufficient to determine the Ohio works first ~~or~~ 23693
~~family assistance~~ percentage in each building, "buildings with the 23694
highest concentration of need" has the meaning given in rules that 23695
the department of education shall adopt. The rules shall base the 23696
definition of "buildings with the highest concentration of need" 23697
on family income of students in grades kindergarten through three 23698
in a manner that, to the extent possible with available data, 23699
approximates the intent of this division and division ~~(G)~~(K) of 23700
this section to designate buildings where the Ohio works first ~~or~~ 23701
~~family assistance~~ percentage in those grades equals or exceeds the 23702
district-wide Ohio works first ~~or family assistance~~ percentage. 23703

(B) In addition to the amounts required to be paid to a 23704
school district under section 3317.022 of the Revised Code, a the 23705
department of education shall compute and distribute to each 23706
school district ~~shall receive~~ for poverty-based assistance the 23707
greater of the following: 23708

(1) The amount the district received in fiscal year ~~1998~~ 2005 23709
for disadvantaged pupil impact aid pursuant to division (B) of 23710
section 3317.023 of the Revised Code as it existed at that time or 23711
the Section 41.10 of Am. Sub. H.B. 95 of the 125th General 23712
Assembly, as amended, minus the amount deducted from the district 23713
under Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly 23714
that year for payments to internet- and computer-based community 23715
schools; 23716

(2) The sum of the computations made under divisions (C) to 23717
(E)(I) of this section. 23718

(C) A supplemental payment that may be utilized for measures 23719
related to safety and security and for remediation or similar 23720
academic intervention programs, if the district's poverty index is 23721
greater than or equal to 0.25, calculated as follows: 23722

(1) If the DPIA index of the school district is greater than 23723
or equal to thirty five hundredths, but less than one, an amount 23724
obtained by multiplying the district's DPIA student count by two 23725
hundred thirty dollars; 23726

(2) If the DPIA index of the school district is greater than 23727
or equal to one, an amount obtained by multiplying the DPIA index 23728
by two hundred thirty dollars and multiplying that product by the 23729
district's DPIA student count. 23730

Except as otherwise provided in division (F) of this section, 23731
beginning with the school year that starts July 1, 2002, each 23732
school district annually shall use at least twenty per cent of the 23733
funds calculated for the district under this division for 23734
intervention services required by section 3313.608 of the Revised 23735
Code. 23736

(1) If the district's poverty index is greater than or equal 23737
to 0.25, calculate the district's level one amount for large-group 23738
academic intervention for all students as follows: 23739

<u>(a) If the district's poverty index is greater than or equal</u>	23740
<u>to 0.25 but less than 0.75:</u>	23741
<u>large-group intervention units X hourly rate X</u>	23742
<u>level one hours X [(poverty index - 0.25)/0.5]</u>	23743
<u>Where:</u>	23744
<u>(i) "Large-group intervention units" equals the district's</u>	23745
<u>formula ADM divided by 20;</u>	23746
<u>(ii) "Hourly rate" equals \$20.00 in fiscal year 2006 and</u>	23747
<u>\$20.40 in fiscal year 2007;</u>	23748
<u>(iii) "Level one hours" equals 25 in fiscal year 2006 and 30</u>	23749
<u>in fiscal year 2007.</u>	23750
<u>(b) If the district's poverty index is greater than or equal</u>	23751
<u>to 0.75:</u>	23752
<u>large-group intervention units X hourly rate X level one hours</u>	23753
<u>Where "large-group intervention units," "hourly rate," and</u>	23754
<u>"level one hours" have the same meanings as in division (C)(1)(a)</u>	23755
<u>of this section.</u>	23756
<u>(2) If the district's poverty index is greater than or equal</u>	23757
<u>to 0.75, calculate the district's level two amount for</u>	23758
<u>medium-group academic intervention for impoverished students as</u>	23759
<u>follows:</u>	23760
<u>(a) If the district's poverty index is greater than or equal</u>	23761
<u>to 0.75 but less than 1.50:</u>	23762
<u>medium-group intervention units X hourly rate X</u>	23763
<u>{level one hours + [75 hours X ((poverty index - 0.75)/0.75)]}</u>	23764
<u>Where:</u>	23765
<u>(i) "Medium group intervention units" equals the district's</u>	23766
<u>poverty student count divided by 10;</u>	23767
<u>(ii) "Hourly rate" and "level one hours" have the same</u>	23768

meanings as in division (C)(1)(a) of this section. 23769

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(b) If the district's poverty index is greater than or equal 23771
to 1.50: 23772

medium-group intervention units X hourly rate X level two hours 23773

Where: 23774

(i) "Medium group intervention units" has the same meaning as 23775
in division (C)(2)(a)(i) of this section; 23776

(ii) "Hourly rate" has the same meaning as in division 23777
(C)(1)(a) of this section; 23778

(iii) "Level two hours" equals 100 hours in fiscal year 2006 23779
and 105 hours in fiscal year 2007. 23780

(3) If the district's poverty index is greater than or equal 23781
to 1.50, calculate the district's level three amount for 23782
small-group academic intervention for impoverished students as 23783
follows: 23784

(a) If the district's poverty index is greater than or equal 23785
to 1.50 but less than 2.50: 23786

small group intervention units X hourly rate X 23787
{level one hours + [level three hours X (poverty index - 1.50)]} 23788

Where: 23789

(i) "Small group intervention units" equals the district's 23790
poverty student count divided by five; 23791

(ii) "Hourly rate" and "level one hours" have the same 23792
meanings as in division (C)(1)(a) of this section; 23793

(iii) "Level three hours" equals 350 hours in fiscal year 23794
2006 and 385 hours in fiscal year 2007. 23795

(b) If the district's poverty index is greater than or equal 23796
to 2.50: 23797

<u>small group intervention units X hourly rate X level three hours</u>	23798
<u>Where:</u>	23799
<u>(i) "Small group intervention units" has the same meaning as in division (C)(3)(a)(i) of this section;</u>	23800 23801
<u>(ii) "Hourly rate" has the same meaning as in division (C)(1)(a) of this section;</u>	23802 23803
<u>(iii) "Level three hours" equals 375 hours in fiscal year 2006 and 415 hours in fiscal year 2007.</u>	23804 23805
(D) A payment for all-day kindergarten if the DPIA <u>poverty</u> index of the school district is greater than or equal to one <u>1.0</u> or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated . <u>In addition, the department shall make a payment under this division to any school district that, in a prior fiscal year, qualified for this payment and provided all-day kindergarten, regardless of changes to the district's poverty index. The department shall calculate the payment under this division</u> by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.	23806 23807 23808 23809 23810 23811 23812 23813 23814 23815 23816
(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:	23817 23818 23819
(1) Determine or calculate a formula number of teachers per one thousand students based on the DPIA <u>poverty</u> index of the school district as follows:	23820 23821 23822
(a) If the DPIA <u>poverty</u> index of the school district is less than six tenths <u>1.0</u> , the formula number of teachers is 43.478 <u>50.0</u> , which is the number of teachers per one thousand students at a student-teacher ratio of twenty-three <u>twenty</u> to one;	23823 23824 23825 23826
(b) If the DPIA <u>poverty</u> index of the school district is	23827

greater than or equal to ~~six tenths~~ 1.0, but less than ~~two and~~ 23828
~~one-half~~ 1.5, the formula number of teachers is calculated as 23829
follows: 23830

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\}$$
$$50.0 + \{[(\text{poverty index} - 1.0) / 0.5] \times 16.667\}$$

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Where ~~43.478~~ 50.0 is the number of teachers per one thousand 23833
students at a student-teacher ratio of ~~twenty-three~~ twenty to one; 23834
~~1.9~~ 0.5 is the interval from a ~~DPIA~~ poverty index of ~~six tenths~~ 23835
1.0 to a ~~DPIA~~ poverty index of ~~two and one-half~~ 1.5; and ~~23.188~~ 23836
16.667 is the difference in the number of teachers per one 23837
thousand students at a student-teacher ratio of fifteen to one and 23838
the number of teachers per one thousand students at a 23839
student-teacher ratio of ~~twenty-three~~ twenty to one. 23840

(c) If the ~~DPIA~~ poverty index of the school district is 23841
greater than or equal to ~~two and one-half~~ 1.5, the formula number 23842
of teachers is 66.667, which is the number of teachers per one 23843
thousand students at a student-teacher ratio of fifteen to one. 23844

(2) Multiply the formula number of teachers determined or 23845
calculated in division (E)(1) of this section by the kindergarten 23846
through third grade ADM for the district and divide that product 23847
by one thousand; 23848

(3) Calculate the number of new teachers as follows: 23849

(a) Multiply the kindergarten through third grade ADM by 23850
~~43.478~~ 50.0, which is the number of teachers per one thousand 23851
students at a student-teacher ratio of ~~twenty-three~~ twenty to one, 23852
and divide that product by one thousand; 23853

(b) Subtract the quotient obtained in division (E)(3)(a) of 23854
this section from the product in division (E)(2) of this section. 23855

(4) Multiply the greater of the difference obtained under 23856
division (E)(3) of this section or zero by the statewide average 23857
teachers ~~salary~~ compensation. For this purpose, the "statewide 23858

average teacher compensation" is \$53,680 in fiscal year 2006 and 23859
\$54,941 in fiscal year 2007, which includes an amount for the 23860
value of fringe benefits. 23861

(F) A payment for services to limited English proficient 23862
students, if the district's poverty index is greater than or equal 23863
to 1.0 and the proportion of its students who are limited English 23864
proficient, as reported in 2003 on its school district report 23865
issued under section 3302.03 of the Revised Code for the 2002-2003 23866
school year, is greater than or equal to 2.0%, calculated as 23867
follows: 23868

(1) If the district's poverty index is greater than or equal 23869
to 1.0, but less than 1.75, determine the amount per limited 23870
English proficient student as follows: 23871

{0.125 + [0.125 X ((poverty index - 1.0)/0.75)]} X formula amount 23872

(2) If the district's poverty index is greater than or equal 23873
to 1.75, the amount per limited English proficient student equals: 23874

0.25 X formula amount 23875

(3) Multiply the per student amount determined for the 23876
district under division (F)(1) or (2) of this section by the 23877
number of the district's limited English proficient students, 23878
times a phase-in percentage of 0.50 in fiscal year 2006 and 1.0 in 23879
fiscal year 2007. For purposes of this calculation, the number of 23880
limited English proficient students for each district shall be the 23881
number determined by the department when it calculated the 23882
district's percentage of limited English students for its school 23883
district report card issued in 2003 for the 2002-2003 school year. 23884

Not later than December 31, 2006, the department of education 23885
shall recommend to the general assembly and the director of budget 23886
and management a method of identifying the number of limited 23887
English proficient students for purposes of calculating payments 23888
under this division after fiscal year 2007. 23889

<u>(G) A payment for professional development of teachers, if</u>	23890
<u>the district's poverty index is greater than or equal to 1.0,</u>	23891
<u>calculated as follows:</u>	23892
<u>(1) If the district's poverty index is greater than or equal</u>	23893
<u>to 1.0, but less than 1.75, determine the amount per teacher as</u>	23894
<u>follows:</u>	23895
<u>$[(\text{poverty index} - 1.0) / 0.75] \times 0.045 \times \text{formula amount}$</u>	23896
<u>(2) If the district's poverty index is greater than or equal</u>	23897
<u>to 1.75, the amount per teacher equals:</u>	23898
<u>$0.045 \times \text{formula amount}$</u>	23899
<u>(3) Determine the number of teachers, as follows:</u>	23900
<u>$(\text{formula ADM}/17)$</u>	23901
<u>(4) Multiply the per teacher amount determined for the</u>	23902
<u>district under division (G)(1) or (2) of this section by the</u>	23903
<u>number of teachers determined under division (G)(3) of this</u>	23904
<u>section, times a phase-in percentage of 0.50 in fiscal year 2006</u>	23905
<u>and 1.0 in fiscal year 2007.</u>	23906
<u>(H) A payment for dropout prevention, if the district is a</u>	23907
<u>big eight school district as defined in section 3314.02 of the</u>	23908
<u>Revised Code, calculated as follows:</u>	23909
<u>$0.005 \times \text{formula amount} \times \text{poverty index}$</u>	23910
<u>$\times \text{formula ADM}$</u>	23911
<u>(I) An amount for community outreach, if the district is an</u>	23912
<u>urban school district as defined in section 3314.02 of the Revised</u>	23913
<u>Code, calculated as follows:</u>	23914
<u>$0.005 \times \text{formula amount} \times \text{poverty index} \times$</u>	23915
<u>$\text{formula ADM} \times \text{phase-in percentage}$</u>	23916
<u>Where "phase-in percentage" equals 0.50 in fiscal year 2006</u>	23917
<u>and 1.0 in fiscal year 2007.</u>	23918
<u>(J) This division applies only to school districts whose DPIA</u>	23919

poverty index is ~~one~~ 1.0 or greater. 23920

(1) Each school district subject to this division shall first 23921
utilize funds received under this section so that, when combined 23922
with other funds of the district, sufficient funds exist to 23923
provide all-day kindergarten to at least the number of children in 23924
the district's all-day kindergarten percentage. 23925

(2) ~~Up to an amount equal to the district's DPIA index~~ 23926
~~multiplied by its DPIA student count multiplied by two hundred~~ 23927
~~thirty dollars of the money distributed under this section may be~~ 23928
~~utilized~~ Each school district shall use its payment under division 23929
(F) of this section for one or more of the following purposes: 23930

(a) To hire teachers for limited English proficient students 23931
or other personnel to provide intervention services for those 23932
students; 23933

(b) To contract for intervention services for those students; 23934

(c) To provide other services to assist those students in 23935
passing the third-grade reading achievement test, and to provide 23936
for those students the intervention services required by section 23937
3313.608 of the Revised Code. 23938

(3) Each school district shall use its payment under division 23939
(G) of this section for professional development of teachers or 23940
other licensed personnel providing educational services to 23941
students only in one or more of the following areas: 23942

(a) Data-based decision making; 23943

(b) Standards-based curriculum models; 23944

(c) Job-embedded professional development activities that are 23945
research-based, as defined in federal law. 23946

In addition, each district shall use the payment only to 23947
implement programs identified on a list of eligible professional 23948
development programs provided by the department of education. The 23949

department annually shall provide the list to each district receiving a payment under division (G) of this section. However, a district may apply to the department for a waiver to implement an alternative professional development program in one or more of the areas specified in divisions (J)(3)(a) to (c) of this section. If the department grants the waiver, the district may use its payment under division (G) of this section to implement the alternative program. 23950
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(4) Each big eight school district shall use its payment under division (H) of this section either for preventing at-risk students from dropping out of school, for safety and security measures described in division (J)(5)(b) of this section, for academic intervention services described in division (J)(6) of this section, or for a combination of those purposes. Not later than September 1, 2005, the department of education shall provide each big eight school district with a list of dropout prevention programs that it has determined are successful. The department subsequently may update the list. Each district that elects to use its payment under division (H) of this section for dropout prevention shall use the payment only to implement a dropout prevention program specified on the department's list. However, a district may apply to the department for a waiver to implement an alternative dropout prevention program. If the department grants the waiver, the district may use its payment under division (H) of this section to implement the alternative program. 23958
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(5) Each urban school district that has a poverty index greater than or equal to 1.0 shall use its payment under division (I) of this section for one or a combination of the following purposes: 23975
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(a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel; 23979
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(b) To implement programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning; 23981
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(c) To implement academic intervention services described in division (J)(6) of this section. 23984
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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, and may use any amount of its payment under division (H) or (I) of this section, for one or both of the following: 23986
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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;~~ 23991
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~~(b) Remediation academic intervention services 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.~~ 23994
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~~Beginning with the school year that starts on July 1, 2002, each school district shall use at least twenty per cent of the funds set aside for the purposes of divisions (F)(2)(a) and (b) of this section to provide, including intervention services required by section 3313.608 of the Revised Code. No district shall spend any portion of its payment under division (C) of this section for any other purpose. Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, no collective bargaining agreement entered into after the effective date of this amendment shall require use of the payment for any other purpose.~~ 23997
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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 equal to 1.0 shall be utilized for the purpose of the third grade~~ 24007
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guarantee. The third grade guarantee consists of increasing the 24012
amount of instructional attention received per pupil in 24013
kindergarten through third grade, either by reducing the ratio of 24014
students to instructional personnel or by increasing the amount of 24015
instruction and curriculum-related activities by extending the 24016
length of the school day or the school year. 24017

School districts may implement a reduction of the ratio of 24018
students to instructional personnel through any or all of the 24019
following methods: 24020

(a) Reducing the number of students in a classroom taught by 24021
a single teacher; 24022

(b) Employing full-time educational aides or educational 24023
paraprofessionals issued a permit or license under section 24024
3319.088 of the Revised Code; 24025

(c) Instituting a team-teaching method that will result in a 24026
lower student-teacher ratio in a classroom. 24027

Districts may extend the school day either by increasing the 24028
amount of time allocated for each class, increasing the number of 24029
classes provided per day, offering optional academic-related 24030
after-school programs, providing curriculum-related extra 24031
curricular activities, or establishing tutoring or remedial 24032
services for students who have demonstrated an educational need. 24033
In accordance with section 3319.089 of the Revised Code, a 24034
district extending the school day pursuant to this division may 24035
utilize a participant of the work experience program who has a 24036
child enrolled in a public school in that district and who is 24037
fulfilling the work requirements of that program by volunteering 24038
or working in that public school. If the work experience program 24039
participant is compensated, the school district may use the funds 24040
distributed under this section for all or part of the 24041
compensation. 24042

Districts may extend the school year either through adding 24043
regular days of instruction to the school calendar or by providing 24044
summer programs. 24045

~~(G)~~(K) Each district ~~subject to division (F) of this section~~ 24046
shall not expend any funds received under division (E) of this 24047
section in any school buildings that are not buildings with the 24048
highest concentration of need, unless there is a ratio of 24049
instructional personnel to students of no more than fifteen to one 24050
in each kindergarten and first grade class in all buildings with 24051
the highest concentration of need. This division does not require 24052
that the funds used in buildings with the highest concentration of 24053
need be spent solely to reduce the ratio of instructional 24054
personnel to students in kindergarten and first grade. A school 24055
district may spend the funds in those buildings in any manner 24056
permitted by division ~~(F)~~(3)~~(J)~~(7) of this section, but may not 24057
spend the money in other buildings unless the fifteen-to-one ratio 24058
required by this division is attained. 24059

~~(H)~~(L)(1) By the first day of August of each fiscal year, 24060
each school district wishing to receive any funds under division 24061
(D) of this section shall submit to the department of education an 24062
estimate of its all-day kindergarten percentage. Each district 24063
shall update its estimate throughout the fiscal year in the form 24064
and manner required by the department, and the department shall 24065
adjust payments under this section to reflect the updates. 24066

(2) Annually by the end of December, the department of 24067
education, utilizing data from the information system established 24068
under section 3301.0714 of the Revised Code and after consultation 24069
with the legislative office of education oversight, shall 24070
determine for each school district subject to division ~~(F)~~(J) of 24071
this section whether in the preceding fiscal year the district's 24072
ratio of instructional personnel to students and its number of 24073
kindergarten students receiving all-day kindergarten appear 24074

reasonable, given the amounts of money the district received for 24075
that fiscal year pursuant to divisions (D) and (E) of this 24076
section. If the department is unable to verify from the data 24077
available that students are receiving reasonable amounts of 24078
instructional attention and all-day kindergarten, given the funds 24079
the district has received under this section and that class-size 24080
reduction funds are being used in school buildings with the 24081
highest concentration of need as required by division ~~(G)~~(K) of 24082
this section, the department shall conduct a more intensive 24083
investigation to ensure that funds have been expended as required 24084
by this section. The department shall file an annual report of its 24085
findings under this division with the chairpersons of the 24086
committees in each house of the general assembly dealing with 24087
finance and education. 24088

~~(I) Any~~ (M)(1) Each school district with a ~~DPIA~~ poverty index 24089
less than ~~one~~ 1.0 and a three-year average formula ADM exceeding 24090
seventeen thousand five hundred shall first utilize funds received 24091
under this section so that, when combined with other funds of the 24092
district, sufficient funds exist to provide all-day kindergarten 24093
to at least the number of children in the district's all-day 24094
kindergarten percentage. ~~Such a district~~ 24095

(2) Each school district with a poverty index less than 1.0 24096
that receives a payment under division (I) of this section shall 24097
use its payment under that division for one or a combination of 24098
the following purposes: 24099

(a) To hire or contract for community liaison officers, 24100
attendance or truant officers, or safety and security personnel; 24101

(b) To implement programs designed to ensure that schools are 24102
free of drugs and violence and have a disciplined environment 24103
conducive to learning; 24104

(c) To implement academic intervention services described in 24105

<u>division (J)(6) of this section.</u>	24106
<u>(3) Each school district to which division (M)(1) or (2) of this section applies</u> shall expend at least seventy per cent of the remaining funds received under this section, and any other district with a DPIA <u>poverty</u> index less than one <u>1.0</u> shall expend at least seventy per cent of all funds received under this section, for any of the following purposes:	24107 24108 24109 24110 24111 24112
(1) <u>(a)</u> The purchase of technology for instructional purposes <u>for remediation;</u>	24113 24114
(2) <u>(b)</u> All-day kindergarten;	24115
(3) <u>(c)</u> Reduction of class sizes <u>in grades kindergarten through three, as described in division (J)(7) of this section;</u>	24116 24117
(4) <u>(d)</u> Summer school remediation;	24118
(5) <u>(e)</u> Dropout prevention programs <u>approved by the department of education under division (J)(4) of this section;</u>	24119 24120
(6) <u>(f)</u> Guaranteeing that all third graders are ready to progress to more advanced work;	24121 24122
(7) <u>(g)</u> Summer education and work programs;	24123
(8) <u>(h)</u> Adolescent pregnancy programs;	24124
(9) <u>(i)</u> Head start or preschool programs;	24125
(10) <u>(j)</u> Reading improvement <u>and remediation</u> programs described by the department of education;	24126 24127
(11) <u>(k)</u> Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;	24128 24129 24130
(12) <u>(l)</u> 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	24131 24132 24133 24134

participating in Ohio works first in accordance with section 24135
3313.642 of the Revised Code; 24136

~~(I)~~(M) School breakfasts provided pursuant to section 24137
3313.813 of the Revised Code. 24138

~~Each district shall submit to the department, in such format 24139
and at such time as the department shall specify, a report on the 24140
programs for which it expended funds under this division. 24141~~

~~(J)~~(N) If at any time the superintendent of public 24142
instruction determines that a school district receiving funds 24143
under division (D) of this section has enrolled less than the 24144
all-day kindergarten percentage reported for that fiscal year, the 24145
superintendent shall withhold from the funds otherwise due the 24146
district under this section a proportional amount as determined by 24147
the difference in the certified all-day kindergarten percentage 24148
and the percentage actually enrolled in all-day kindergarten. 24149

The superintendent shall also withhold an appropriate amount 24150
of funds otherwise due a district for any other misuse of funds 24151
not in accordance with this section. 24152

~~(K)~~(O)(1) A district may use a portion of the funds 24153
calculated for it under division (D) of this section to modify or 24154
purchase classroom space to provide all-day kindergarten, if both 24155
of the following conditions are met: 24156

(a) The district certifies to the department, in a manner 24157
acceptable to the department, that it has a shortage of space for 24158
providing all-day kindergarten. 24159

(b) The district provides all-day kindergarten to the number 24160
of children in the all-day kindergarten percentage it certified 24161
under this section. 24162

(2) A district may use a portion of the funds described in 24163
division ~~(F)~~~~(3)~~(J)(7) of this section to modify or purchase 24164

classroom space to enable it to further reduce class size in 24165
grades kindergarten through two with a goal of attaining class 24166
sizes of fifteen students per licensed teacher. To do so, the 24167
district must certify its need for additional space to the 24168
department, in a manner satisfactory to the department. 24169

Sec. 3317.0216. (A) As used in this section: 24170

(1) "Total taxes charged and payable for current expenses" 24171
means the sum of the taxes charged and payable as certified under 24172
division (A)(3)(a) of section 3317.021 of the Revised Code less 24173
any amounts reported under division (A)(3)(b) of that section, and 24174
the tax distribution for the preceding year under any school 24175
district income tax levied by the district pursuant to Chapter 24176
5748. of the Revised Code to the extent the revenue from the 24177
income tax is allocated or apportioned to current expenses. 24178

(2) "Charge-off amount" means the product obtained by 24179
multiplying two and three-tenths per cent by recognized valuation. 24180

(3) Until fiscal year 2003, the "actual local share of 24181
special education, transportation, and vocational education 24182
funding" for any school district means the sum of the district's 24183
attributed local shares described in divisions (F)(1) to (3) of 24184
section 3317.022 of the Revised Code. Beginning in fiscal year 24185
2003, the "actual local share of special education, 24186
transportation, and vocational education funding" means that sum 24187
minus the amount of any excess cost supplement payment calculated 24188
for the district under division (F) of section 3317.022 of the 24189
Revised Code. 24190

(B) Upon receiving the certifications under section 3317.021 24191
of the Revised Code, the department of education shall determine 24192
for each city, local, and exempted village school district whether 24193
the district's charge-off amount is greater than the district's 24194
total taxes charged and payable for current expenses, and if it 24195

is, shall pay the district the amount of the difference. A payment 24196
shall not be made to any school district for which the computation 24197
under division (A) of section 3317.022 of the Revised Code equals 24198
zero. 24199

(C)(1) If a district's charge-off amount is equal to or 24200
greater than its total taxes charged and payable for current 24201
expenses, the department shall, in addition to the payment 24202
required under division (B) of this section, pay the district the 24203
amount of its actual local share of special education, 24204
transportation, and vocational education funding. 24205

(2) If a district's charge-off amount is less than its total 24206
taxes charged and payable for current expenses, the department 24207
shall pay the district any amount by which its actual local share 24208
of special education, transportation, and vocational education 24209
funding exceeds its total taxes charged and payable for current 24210
expenses minus its charge-off amount. 24211

(D) If a school district that received a payment under 24212
division (B) or (C) of this section in the prior fiscal year is 24213
ineligible for payment under those divisions in the current fiscal 24214
year, the department shall determine if the ineligibility is the 24215
result of a property tax or income tax levy approved by the 24216
district's voters to take effect in tax year 2005 or thereafter. 24217
If the department determines that is the case, and calculates that 24218
the levy causing the ineligibility exceeded by at least one mill 24219
the equivalent millage of the prior year's payment under divisions 24220
(B) and (C) of this section, the department shall make a payment 24221
to the district for the first three years that the district loses 24222
eligibility for payment under divisions (B) and (C) of this 24223
section, as follows: 24224

(1) In the first year of ineligibility, the department shall 24225
pay the district seventy-five per cent of the amount it last paid 24226

the district under divisions (B) and (C) of this section. 24227

(2) In the second year of ineligibility, the department shall 24228
pay the district fifty per cent of the amount it last paid the 24229
district under those divisions. 24230

(3) In the third year of ineligibility, the department shall 24231
pay the district twenty-five per cent of the amount it last paid 24232
the district under those divisions. 24233

(E) A district that receives payment under division (D) of 24234
this section and subsequently qualifies for payment under division 24235
(B) or (C) of this section is ineligible for future payments under 24236
division (D) of this section. 24237

Sec. 3317.0217. The department of education shall annually 24238
compute and pay state parity aid to school districts, as follows: 24239

(A) Calculate the local wealth per pupil of each school 24240
district, which equals the following sum: 24241

(1) Two-thirds times the quotient of (a) the district's 24242
recognized valuation divided by (b) its formula ADM; plus 24243

(2) One-third times the quotient of (a) the average of the 24244
total federal adjusted gross income of the school district's 24245
residents for the three years most recently reported under section 24246
3317.021 of the Revised Code divided by (b) its formula ADM. 24247

(B) Rank all school districts in order of local wealth per 24248
pupil, from the district with the lowest local wealth per pupil to 24249
the district with the highest local wealth per pupil. 24250

(C) Compute the per pupil state parity aid funding for each 24251
school district in accordance with the following formula: 24252

~~Payment percentage~~ X (threshold local wealth 24253
per pupil - the district's local 24254
wealth per pupil) X ~~0.0095~~ 0.0075 24255

Where: 24256

~~(1) "Payment percentage," for purposes of division (C) of 24257
this section, equals 20% in fiscal year 2002, 40% in fiscal year 24258
2003, 58% in fiscal year 2004, 76% in fiscal year 2005, and 100% 24259
after fiscal year 2005. 24260~~

~~(2) Nine and one half mills (0.0095) is the general 24261
assembly's determination of the average number of effective 24262
operating mills that districts in the seventieth to ninetieth 24263
percentiles of valuations per pupil collected in fiscal year 2001 24264
above the revenues required to finance their attributed local 24265
shares of the calculated cost of an adequate education. This was 24266
determined by (a) adding the district revenues from operating 24267
property tax levies and income tax levies, (b) subtracting from 24268
that total the sum of (i) twenty three mills times adjusted 24269
recognized valuation plus (ii) the attributed local shares of 24270
special education, transportation, and vocational education 24271
funding as described in divisions (F)(1) to (3) of section 24272
3317.022 of the Revised Code, and (c) converting the result to an 24273
effective operating property tax rate Seven and one-half mills 24274
(0.0075) is an adjustment to the original parity aid standard of 24275
nine and one-half mills, to account for the general assembly's 24276
policy decision to eliminate use of the cost-of-doing-business 24277
factor in the base cost formula. 24278~~

~~(3)(2) The "threshold local wealth per pupil" is the local 24279
wealth per pupil of the school district with the 24280
four-hundred-ninetieth lowest local wealth per pupil. 24281~~

If the result of the calculation for a school district under 24282
division (C) of this section is less than zero, the district's per 24283
pupil parity aid shall be zero. 24284

(D) Compute the per pupil alternative parity aid for each 24285
school district that has a combination of an income factor of 1.0 24286

or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year 24287
2005 cost-of-doing-business factor of 1.0375 or greater, in 24288
accordance with the following formula: 24289

$$\begin{aligned} & \text{Payment percentage} \times \$60,000 \times & 24290 \\ & (1 - \text{income factor}) \times 4/15 \times 0.023 & 24291 \end{aligned}$$

Where: 24292

(1) "~~DPIA~~ poverty index" has the same meaning as in section 24293
3317.029 of the Revised Code. 24294

(2) "Payment percentage," for purposes of division (D) of 24295
this section, equals 50% in fiscal year 2002 and 100% after fiscal 24296
year 2002. 24297

(E) Pay each district that has a combination of an income 24298
factor of of 1.0 or less, a ~~DPIA~~ poverty index of 1.0 or greater, and 24299
a fiscal year 2005 cost-of-doing-business factor of 1.0375 or 24300
greater, the greater of the following: 24301

(1) The product of the district's per pupil parity aid 24302
calculated under division (C) of this section times its net 24303
formula ADM; 24304

(2) The product of its per pupil alternative parity aid 24305
calculated under division (D) of this section times its net 24306
formula ADM. 24307

(F) Pay every other district the product of its per pupil 24308
parity aid calculated under division (C) of this section times its 24309
net formula ADM. 24310

(G) As used in divisions (E) and (F) of this section, "net 24311
formula ADM" means formula ADM minus the number of internet- and 24312
computer-based community school students and scholarship students 24313
reported under divisions (B)(3)(e) and (f) of section 3317.03 of 24314
the Revised Code. 24315

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 24316
(C) of this section, any student enrolled in kindergarten more 24317
than half time shall be reported as one-half student under this 24318
section. 24319

(A) The superintendent of each city and exempted village 24320
school district and of each educational service center shall, for 24321
the schools under the superintendent's supervision, certify to the 24322
state board of education on or before the fifteenth day of October 24323
in each year for the first full school week in October the formula 24324
ADM, which shall consist of the average daily membership during 24325
such week of the sum of the following: 24326

(1) On an FTE basis, the number of students in grades 24327
kindergarten through twelve receiving any educational services 24328
from the district, except that the following categories of 24329
students shall not be included in the determination: 24330

(a) Students enrolled in adult education classes; 24331

(b) Adjacent or other district students enrolled in the 24332
district under an open enrollment policy pursuant to section 24333
3313.98 of the Revised Code; 24334

(c) Students receiving services in the district pursuant to a 24335
compact, cooperative education agreement, or a contract, but who 24336
are entitled to attend school in another district pursuant to 24337
section 3313.64 or 3313.65 of the Revised Code; 24338

(d) Students for whom tuition is payable pursuant to sections 24339
3317.081 and 3323.141 of the Revised Code. 24340

(2) On an FTE basis, the number of students entitled to 24341
attend school in the district pursuant to section 3313.64 or 24342
3313.65 of the Revised Code, but receiving educational services in 24343
grades kindergarten through twelve from one or more of the 24344
following entities: 24345

(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;	24346 24347 24348 24349
(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;	24350 24351 24352
(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;	24353 24354 24355 24356
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	24357 24358 24359
(e) An educational service center or cooperative education district;	24360 24361
(f) Another school district under a cooperative education agreement, compact, or contract;	24362 24363
<u>(g) A registered private school with a scholarship paid under section 3310.08 of the Revised Code.</u>	24364 24365
(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;	24366 24367 24368 24369 24370 24371 24372 24373
(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the	24374 24375

district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the following student counts for the same week for which formula ADM is certified:

(1) The total average daily membership in regular day classes included in the report under division (A)(1) or (2) of this section for kindergarten, and each of grades one through twelve in schools under the superintendent's supervision;

(2) The number of all handicapped preschool children enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are participating:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section, ~~are enrolled;~~

(b) Enrolled in a college under 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, ~~are enrolled;~~

<u>(c) Enrolled</u> in an adjacent or other school district under	24407
section 3313.98 of the Revised Code, are enrolled;	24408
<u>(d) Enrolled</u> in a community school established under Chapter	24409
3314. of the Revised Code <u>that is not an internet- or</u>	24410
<u>computer-based community school as defined in section 3314.02 of</u>	24411
<u>the Revised Code</u> , including any participation in a college	24412
pursuant to Chapter 3365. of the Revised Code while enrolled in	24413
such community school, or are participating;	24414
<u>(e) Enrolled in an internet- or computer-based community</u>	24415
<u>school, as defined in section 3314.02 of the Revised Code,</u>	24416
<u>including any participation in a college pursuant to Chapter 3365.</u>	24417
<u>of the Revised Code while enrolled in the school;</u>	24418
<u>(f) Enrolled in a chartered nonpublic school with a</u>	24419
<u>scholarship paid under section 3310.08 of the Revised Code;</u>	24420
<u>(g) Participating</u> in a program operated by a county MR/DD	24421
board or a state institution;	24422
(4) The number of pupils enrolled in joint vocational	24423
schools;	24424
(5) The average daily membership of handicapped children	24425
reported under division (A)(1) or (2) of this section receiving	24426
special education services for the category one handicap described	24427
in division (A) of section 3317.013 of the Revised Code;	24428
(6) The average daily membership of handicapped children	24429
reported under division (A)(1) or (2) of this section receiving	24430
special education services for category two handicaps described in	24431
division (B) of section 3317.013 of the Revised Code;	24432
(7) The average daily membership of handicapped children	24433
reported under division (A)(1) or (2) of this section receiving	24434
special education services for category three handicaps described	24435
in division (C) of section 3317.013 of the Revised Code;	24436

(8) The average daily membership of handicapped children 24437
reported under division (A)(1) or (2) of this section receiving 24438
special education services for category four handicaps described 24439
in division (D) of section 3317.013 of the Revised Code; 24440

(9) The average daily membership of handicapped children 24441
reported under division (A)(1) or (2) of this section receiving 24442
special education services for the category five handicap 24443
described in division (E) of section 3317.013 of the Revised Code; 24444

(10) The average daily membership of handicapped children 24445
reported under division (A)(1) or (2) of this section receiving 24446
special education services for category six handicaps described in 24447
division (F) of section 3317.013 of the Revised Code; 24448

(11) The average daily membership of pupils reported under 24449
division (A)(1) or (2) of this section enrolled in category one 24450
vocational education programs or classes, described in division 24451
(A) of section 3317.014 of the Revised Code, operated by the 24452
school district or by another district, other than a joint 24453
vocational school district, or by an educational service center, 24454
excluding any student reported under division (B)(3)(e) of this 24455
section as enrolled in an internet- or computer-based community 24456
school, notwithstanding division (C) of section 3317.02 of the 24457
Revised Code and division (C)(3) of this section; 24458

(12) The average daily membership of pupils reported under 24459
division (A)(1) or (2) of this section enrolled in category two 24460
vocational education programs or services, described in division 24461
(B) of section 3317.014 of the Revised Code, operated by the 24462
school district or another school district, other than a joint 24463
vocational school district, or by an educational service center, 24464
excluding any student reported under division (B)(3)(e) of this 24465
section as enrolled in an internet- or computer-based community 24466
school, notwithstanding division (C) of section 3317.02 of the 24467

<u>Revised Code and division (C)(3) of this section;</u>	24468
(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;	24469 24470 24471 24472
(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;	24473 24474 24475
(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	24476 24477 24478 24479 24480
(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;	24481 24482 24483 24484 24485
(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	24486 24487 24488 24489 24490
(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;	24491 24492 24493 24494 24495
(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services	24496 24497 24498

for the category five handicap described in division (E) of 24499
section 3317.013 of the Revised Code; 24500

(g) The number of handicapped children, other than 24501
handicapped preschool children, placed with a county MR/DD board 24502
in the current fiscal year to receive special education services 24503
for category six handicaps described in division (F) of section 24504
3317.013 of the Revised Code. 24505

(C)(1) Except as otherwise provided in this section for 24506
kindergarten students, the average daily membership in divisions 24507
(B)(1) to (12) of this section shall be based upon the number of 24508
full-time equivalent students. The state board of education shall 24509
adopt rules defining full-time equivalent students and for 24510
determining the average daily membership therefrom for the 24511
purposes of divisions (A), (B), and (D) of this section. 24512

(2) A student enrolled in a community school established 24513
under Chapter 3314. of the Revised Code shall be counted in the 24514
formula ADM and, if applicable, the category one, two, three, 24515
four, five, or six special education ADM of the school district in 24516
which the student is entitled to attend school under section 24517
3313.64 or 3313.65 of the Revised Code for the same proportion of 24518
the school year that the student is counted in the enrollment of 24519
the community school for purposes of section 3314.08 of the 24520
Revised Code. 24521

(3) No child shall be counted as more than a total of one 24522
child in the sum of the average daily memberships of a school 24523
district under division (A), divisions (B)(1) to (12), or division 24524
(D) of this section, except as follows: 24525

(a) A child with a handicap described in section 3317.013 of 24526
the Revised Code may be counted both in formula ADM and in 24527
category one, two, three, four, five, or six special education ADM 24528
and, if applicable, in category one or two vocational education 24529

ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM. 24530
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(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes. 24534
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(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. 24542
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(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district. 24546
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The following categories of students shall not be included in 24560

the determination made under division (D)(1) of this section:	24561
(a) Students enrolled in adult education classes;	24562
(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;	24563 24564 24565
(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;	24566 24567 24568 24569 24570
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	24571 24572
(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students <u>for the same week for which formula ADM is certified</u> :	24573 24574 24575 24576 24577 24578 24579
(a) Students enrolled in each grade included in the joint vocational district schools;	24580 24581
(b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	24582 24583 24584
(c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;	24585 24586 24587
(d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	24588 24589 24590

(e) Handicapped children receiving special education services	24591
for category four handicaps described in division (D) of section	24592
3317.013 of the Revised Code;	24593
(f) Handicapped children receiving special education services	24594
for the category five handicap described in division (E) of	24595
section 3317.013 of the Revised Code;	24596
(g) Handicapped children receiving special education services	24597
for category six handicaps described in division (F) of section	24598
3317.013 of the Revised Code;	24599
(h) Students receiving category one vocational education	24600
services, described in division (A) of section 3317.014 of the	24601
Revised Code;	24602
(i) Students receiving category two vocational education	24603
services, described in division (B) of section 3317.014 of the	24604
Revised Code.	24605
The superintendent of each joint vocational school district	24606
shall also indicate the city, local, or exempted village school	24607
district in which each joint vocational district pupil is entitled	24608
to attend school pursuant to section 3313.64 or 3313.65 of the	24609
Revised Code.	24610
(E) In each school of each city, local, exempted village,	24611
joint vocational, and cooperative education school district there	24612
shall be maintained a record of school membership, which record	24613
shall accurately show, for each day the school is in session, the	24614
actual membership enrolled in regular day classes. For the purpose	24615
of determining average daily membership, the membership figure of	24616
any school shall not include any pupils except those pupils	24617
described by division (A) of this section. The record of	24618
membership for each school shall be maintained in such manner that	24619
no pupil shall be counted as in membership prior to the actual	24620
date of entry in the school and also in such manner that where for	24621

any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

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.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are

eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified for the first full school week of October for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the first full school week in October.

(G)(1)~~(a)~~ The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the, in the manner prescribed by the superintendent of public instruction,

both of the following: 24717

(a) The average daily membership of all handicapped children other than handicapped preschool children receiving services at the institution for each category of handicap described in divisions (A) to (F) of section 3317.013 of the Revised Code; 24718
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(b) The average daily membership of all handicapped preschool children in classes or programs approved annually by the department of education, in the manner prescribed by the superintendent of public instruction for unit funding under section 3317.05 of the Revised Code. 24722
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~~(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.~~ 24727
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(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following: 24733
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(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes; 24737
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24739
24740

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes. 24741
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(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by 24746
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the county MR/DD board that are eligible for approval under 24748
division (B) of section 3317.05 of the Revised Code is greater 24749
than the number of units approved for the year under that 24750
division, the superintendent shall make the certification required 24751
by this section for that day. 24752

(b) If the department determines that additional classes or 24753
units can be approved for the fiscal year within any limitations 24754
set forth in the acts appropriating moneys for the funding of the 24755
classes and units described in division (G)(3)(a) of this section, 24756
the department shall approve and fund additional units for the 24757
fiscal year on the basis of such average daily membership. For 24758
each unit so approved, the department shall pay an amount computed 24759
in the manner prescribed in sections 3317.052 and 3317.053 of the 24760
Revised Code. 24761

(H) Except as provided in division (I) of this section, when 24762
any city, local, or exempted village school district provides 24763
instruction for a nonresident pupil whose attendance is 24764
unauthorized attendance as defined in section 3327.06 of the 24765
Revised Code, that pupil's membership shall not be included in 24766
that district's membership figure used in the calculation of that 24767
district's formula ADM or included in the determination of any 24768
unit approved for the district under section 3317.05 of the 24769
Revised Code. The reporting official shall report separately the 24770
average daily membership of all pupils whose attendance in the 24771
district is unauthorized attendance, and the membership of each 24772
such pupil shall be credited to the school district in which the 24773
pupil is entitled to attend school under division (B) of section 24774
3313.64 or section 3313.65 of the Revised Code as determined by 24775
the department of education. 24776

(I)(1) A city, local, exempted village, or joint vocational 24777
school district admitting a scholarship student of a pilot project 24778
district pursuant to division (C) of section 3313.976 of the 24779

Revised Code may count such student in its average daily membership. 24780
24781

(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: 24782
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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; 24787
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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. 24790
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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. 24793
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Sec. 3317.031. A membership record shall be kept by grade level in each city, local, exempted village, joint vocational, and cooperative education school district and such a record shall be kept by grade level in each educational service center that provides academic instruction to pupils, classes for handicapped pupils, or any other direct instructional services to pupils. Such membership record shall show the following information for each pupil enrolled: Name, date of birth, name of parent, date entered school, date withdrawn from school, days present, days absent, and 24801
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the number of days school was open for instruction while the pupil 24810
was enrolled. At the end of the school year this membership record 24811
shall show the total days present, the total days absent, and the 24812
total days due for all pupils in each grade. Such membership 24813
record shall show the pupils that are transported to and from 24814
school and it shall also show the pupils that are transported 24815
living within one mile of the school attended. This membership 24816
record shall also show any other information prescribed by the 24817
state board of education. 24818

This membership record shall be kept intact for at least five 24819
years and shall be made available to the state board of education 24820
or its representative in making an audit of the average daily 24821
membership or the transportation of the district or educational 24822
service center. The membership records of local school districts 24823
shall be filed at the close of each school year in the office of 24824
the educational service center superintendent. 24825

The state board of education may withhold any money due any 24826
school district or educational service center under sections 24827
3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 3317.17, or 24828
3317.19 of the Revised Code until it has satisfactory evidence 24829
that the board of education or educational service center 24830
governing board has fully complied with all of the provisions of 24831
this section. 24832

Nothing in this section shall require any person to release, 24833
or to permit access to, public school records in violation of 24834
section 3319.321 of the Revised Code. 24835

Sec. 3317.05. (A) ~~For~~ The department of education shall 24836
assign units under this division until July 1, 2005. 24837

For the purpose of calculating payments under sections 24838
3317.052 and 3317.053 of the Revised Code, the department of 24839
education shall determine for each institution, by the last day of 24840

January of each year and based on information certified under 24841
section 3317.03 of the Revised Code, the number of vocational 24842
education units or fractions of units approved by the department 24843
on the basis of standards and rules adopted by the state board of 24844
education. As used in this division, "institution" means an 24845
institution operated by a department specified in section 3323.091 24846
of the Revised Code and that provides vocational education 24847
programs under the supervision of the division of vocational 24848
education of the department that meet the standards and rules for 24849
these programs, including licensure of professional staff involved 24850
in the programs, as established by the state board. 24851

(B) For the purpose of calculating payments under sections 24852
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24853
department shall determine, based on information certified under 24854
section 3317.03 of the Revised Code, the following by the last day 24855
of January of each year for each educational service center, for 24856
each school district, including each cooperative education school 24857
district, for each institution eligible for payment under section 24858
3323.091 of the Revised Code, and for each county MR/DD board: the 24859
number of classes operated by the school district, service center, 24860
institution, or county MR/DD board for handicapped preschool 24861
children, or fraction thereof, including in the case of a district 24862
or service center that is a funding agent, classes taught by a 24863
licensed teacher employed by that district or service center under 24864
section 3313.841 of the Revised Code, approved annually by the 24865
department on the basis of standards and rules adopted by the 24866
state board. 24867

(C) For the purpose of calculating payments under sections 24868
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24869
department shall determine, based on information certified under 24870
section 3317.03 of the Revised Code, the following by the last day 24871
of January of each year for each school district, including each 24872

cooperative education school district, for each institution 24873
eligible for payment under section 3323.091 of the Revised Code, 24874
and for each county MR/DD board: the number of preschool 24875
handicapped related services units for child study, occupational, 24876
physical, or speech and hearing therapy, special education 24877
supervisors, and special education coordinators approved annually 24878
by the department on the basis of standards and rules adopted by 24879
the state board. 24880

~~(D) For the purpose of calculating payments under sections 24881
3317.052 and 3317.053 of the Revised Code, the department shall 24882
determine, based on information certified under section 3317.03 of 24883
the Revised Code, the following by the last day of January of each 24884
year for each institution eligible for payment under section 24885
3323.091 of the Revised Code: 24886~~

~~(1) The number of classes operated by an institution for 24887
handicapped children other than handicapped preschool children, or 24888
fraction thereof, approved annually by the department on the basis 24889
of standards and rules adopted by the state board; 24890~~

~~(2) The number of related services units for children other 24891
than handicapped preschool children for child study, occupational, 24892
physical, or speech and hearing therapy, special education 24893
supervisors, and special education coordinators approved annually 24894
by the department on the basis of standards and rules adopted by 24895
the state board. 24896~~

~~(E) All of the arithmetical calculations made under this 24897
section shall be carried to the second decimal place. The total 24898
number of units for school districts, service centers, and 24899
institutions approved annually under this section shall not exceed 24900
the number of units included in the estimate of cost for these 24901
units and appropriations made for them by the general assembly. 24902~~

~~In the case of units described in division (D)(1) of this 24903~~

~~section operated by institutions eligible for payment under~~ 24904
~~section 3323.091 of the Revised Code, the department shall approve~~ 24905
~~only units for persons who are under age twenty two on the first~~ 24906
~~day of the academic year, but not less than six years of age on~~ 24907
~~the thirtieth day of September of that year, except that such a~~ 24908
~~unit may include one or more children who are under six years of~~ 24909
~~age on the thirtieth day of September if such children have been~~ 24910
~~admitted to the unit pursuant to rules of the state board. In the~~ 24911
case of handicapped preschool units described in division (B) of 24912
this section, the department shall approve only preschool units 24913
for children who are under age six on the thirtieth day of 24914
September of the academic year, or on the first day of August of 24915
the academic year if the school district in which the child is 24916
enrolled has adopted a resolution under division (A)(3) of section 24917
3321.01 of the Revised Code, but not less than age three on the 24918
first day of December of the academic year, except that such a 24919
unit may include one or more children who are under age three or 24920
are age six or over on the ~~first day of December~~ applicable date, 24921
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 24922
of the Revised Code, if such children have been admitted to the 24923
unit pursuant to rules of the state board. The number of units for 24924
county MR/DD boards and institutions eligible for payment under 24925
section 3323.091 of the Revised Code approved under this section 24926
shall not exceed the number that can be funded with appropriations 24927
made for such purposes by the general assembly. 24928

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) 24929
of this section unless a plan has been submitted and approved 24930
under Chapter 3323. of the Revised Code. 24931

~~(F)~~(E) The department shall approve units or fractions 24932
thereof for gifted children on the basis of standards and rules 24933
adopted by the state board. 24934

Sec. 3317.052. As used in this section, "institution" means 24935
an institution operated by a department specified in division (A) 24936
of section 3323.091 of the Revised Code. 24937

(A)(1) The department of education shall pay each school 24938
district, educational service center, institution eligible for 24939
payment under section 3323.091 of the Revised Code, or county 24940
MR/DD board an amount for the total of all classroom units for 24941
handicapped preschool children approved under division (B) of 24942
section 3317.05 of the Revised Code. For each unit, the amount 24943
shall be the sum of the minimum salary for the teacher of the 24944
unit, calculated on the basis of the teacher's training level and 24945
years of experience pursuant to the salary schedule prescribed in 24946
the version of section 3317.13 of the Revised Code in effect prior 24947
to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 24948
per cent of that minimum salary amount, and eight thousand 24949
twenty-three dollars. 24950

(2) The department shall pay each school district, 24951
educational service center, institution eligible for payment under 24952
section 3323.091 of the Revised Code, or county MR/DD board an 24953
amount for the total of all related services units for handicapped 24954
preschool children approved under division (C) of section 3317.05 24955
of the Revised Code. For each such unit, the amount shall be the 24956
sum of the minimum salary for the teacher of the unit calculated 24957
on the basis of the teacher's training level and years of 24958
experience pursuant to the salary schedule prescribed in the 24959
version of section 3317.13 of the Revised Code in effect prior to 24960
~~the effective date of this amendment~~ July 1, 2001, fifteen per 24961
cent of that minimum salary amount, and two thousand one hundred 24962
thirty-two dollars. 24963

(B) If a school district, educational service center, or 24964
county MR/DD board has had additional handicapped preschool units 24965

approved for the year under division (F)(2) or (G)(3) of section 24966
3317.03 of the Revised Code, the district, educational service 24967
center, or board shall receive an additional amount during the 24968
last half of the fiscal year. For each district, center, or board, 24969
the additional amount for each unit shall equal fifty per cent of 24970
the amounts computed for the unit in the manner prescribed by 24971
division (A) of this section and division (C) of section 3317.053 24972
of the Revised Code. 24973

~~(C)(1) The department shall pay each institution eligible for 24974
payment under section 3323.091 of the Revised Code or county MR/DD 24975
board an amount for the total of all special education units 24976
approved under division (D)(1) of section 3317.05 of the Revised 24977
Code. The amount for each unit shall be the sum of the minimum 24978
salary for the teacher of the unit, calculated on the basis of the 24979
teacher's training level and years of experience pursuant to the 24980
salary schedule prescribed in the version of section 3317.13 of 24981
the Revised Code in effect prior to the effective date of this 24982
amendment, plus fifteen per cent of that minimum salary amount, 24983
and eight thousand twenty three dollars. 24984~~

~~(2) The department shall pay each institution eligible for 24985
payment under section 3323.091 of the Revised Code an amount for 24986
the total of all related services units approved under division 24987
(D)(2) of section 3317.05 of the Revised Code. The amount for each 24988
unit shall be the sum of the minimum salary for the teacher of the 24989
unit, calculated on the basis of the teacher's training level and 24990
years of experience pursuant to the salary schedule prescribed in 24991
the version of section 3317.13 of the Revised Code in effect prior 24992
to the effective date of this amendment, plus fifteen per cent of 24993
that minimum salary amount, and two thousand one hundred 24994
thirty two dollars. 24995~~

~~(D) The department shall may pay each institution approved 24996
for vocational education units under division (A) of section 24997~~

~~3317.05 of the Revised Code an amount for the total of all the units approved under that division. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and nine thousand five hundred ten dollars~~ a grant amount based on the institution's submission of a comprehensive plan for a program to provide vocational education services. Each institution that receives a grant under this division annually shall report to the department on the delivery of services and the performance of students and any other information required by the department to evaluate the institution's vocational education program.

Sec. 3317.053. (A) As used in this section:

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

(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	25029
Division (F) (E) of that section	\$5,251	25030

(B) In the case of each unit described in division (B), (C), 25031
or ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to 25032
a city, local, or exempted village school district, the department 25033
of education, in addition to the amounts specified in division (P) 25034
of section 3317.024 and sections 3317.052 and 3317.19 of the 25035
Revised Code, shall pay a supplemental unit allowance equal to the 25036
sum of the following amounts: 25037

(1) An amount equal to 50% of the average unit amount for the 25038
unit; 25039

(2) An amount equal to the percentage of the dollar amount 25040
for the unit that equals the district's state share percentage. 25041

If, prior to the fifteenth day of May of a fiscal year, a 25042
school district's aid computed under section 3317.022 of the 25043
Revised Code is recomputed pursuant to section 3317.027 or 25044
3317.028 of the Revised Code, the department shall also recompute 25045
the district's entitlement to payment under this section utilizing 25046
a new state share percentage. Such new state share percentage 25047
shall be determined using the district's recomputed basic aid 25048
amount pursuant to section 3317.027 or 3317.028 of the Revised 25049
Code. During the last six months of the fiscal year, the 25050
department shall pay the district a sum equal to one-half of the 25051
recomputed payment in lieu of one-half the payment otherwise 25052
calculated under this section. 25053

(C)(1) In the case of each unit allocated to an institution 25054
pursuant to division (A) of section 3317.05 of the Revised Code, 25055
the department, in addition to the amount specified in section 25056
3317.052 of the Revised Code, shall pay a supplemental unit 25057
allowance of \$7,227. 25058

(2) In the case of each unit described in division (B) ~~or~~ 25059

~~(D)~~(1) of section 3317.05 of the Revised Code that is allocated to 25060
any entity other than a city, exempted village, or local school 25061
district, the department, in addition to the amount specified in 25062
section 3317.052 of the Revised Code, shall pay a supplemental 25063
unit allowance of \$7,799. 25064

(3) In the case of each unit described in division (C) ~~or~~ 25065
~~(D)~~(2) of section 3317.05 of the Revised Code and allocated to any 25066
entity other than a city, exempted village, or local school 25067
district, the department, in addition to the amounts specified in 25068
section 3317.052 of the Revised Code, shall pay a supplemental 25069
unit allowance of \$2,966. 25070

(4) In the case of each unit described in division ~~(F)~~(E) of 25071
section 3317.05 of the Revised Code and allocated to an 25072
educational service center, the department, in addition to the 25073
amounts specified in division (P) of section 3317.024 of the 25074
Revised Code, shall pay a supplemental unit allowance of \$5,251. 25075

Sec. 3317.06. Moneys paid to school districts under division 25076
(L) of section 3317.024 of the Revised Code shall be used for the 25077
following independent and fully severable purposes: 25078

(A) To purchase such secular textbooks or electronic 25079
textbooks as have been approved by the superintendent of public 25080
instruction for use in public schools in the state and to loan 25081
such textbooks or electronic textbooks to pupils attending 25082
nonpublic schools within the district or to their parents and to 25083
hire clerical personnel to administer such lending program. Such 25084
loans shall be based upon individual requests submitted by such 25085
nonpublic school pupils or parents. Such requests shall be 25086
submitted to the school district in which the nonpublic school is 25087
located. Such individual requests for the loan of textbooks or 25088
electronic textbooks shall, for administrative convenience, be 25089
submitted by the nonpublic school pupil or the pupil's parent to 25090

the nonpublic school, which shall prepare and submit collective 25091
summaries of the individual requests to the school district. As 25092
used in this section: 25093

(1) "Textbook" means any book or book substitute that a pupil 25094
uses as a consumable or nonconsumable text, text substitute, or 25095
text supplement in a particular class or program in the school the 25096
pupil regularly attends. 25097

(2) "Electronic textbook" means computer software, 25098
interactive videodisc, magnetic media, CD-ROM, computer 25099
courseware, local and remote computer assisted instruction, 25100
on-line service, electronic medium, or other means of conveying 25101
information to the student or otherwise contributing to the 25102
learning process through electronic means. 25103

(B) To provide speech and hearing diagnostic services to 25104
pupils attending nonpublic schools within the district. Such 25105
service shall be provided in the nonpublic school attended by the 25106
pupil receiving the service. 25107

(C) To provide physician, nursing, dental, and optometric 25108
services to pupils attending nonpublic schools within the 25109
district. Such services shall be provided in the school attended 25110
by the nonpublic school pupil receiving the service. 25111

(D) To provide diagnostic psychological services to pupils 25112
attending nonpublic schools within the district. Such services 25113
shall be provided in the school attended by the pupil receiving 25114
the service. 25115

(E) To provide therapeutic psychological and speech and 25116
hearing services to pupils attending nonpublic schools within the 25117
district. Such services shall be provided in the public school, in 25118
nonpublic schools, in public centers, or in mobile units located 25119
on or off of the nonpublic premises. If such services are provided 25120
in the public school or in public centers, transportation to and 25121

from such facilities shall be provided by the school district in 25122
which the nonpublic school is located. 25123

(F) To provide guidance and counseling services to pupils 25124
attending nonpublic schools within the district. Such services 25125
shall be provided in the public school, in nonpublic schools, in 25126
public centers, or in mobile units located on or off of the 25127
nonpublic premises. If such services are provided in the public 25128
school or in public centers, transportation to and from such 25129
facilities shall be provided by the school district in which the 25130
nonpublic school is located. 25131

(G) To provide remedial services to pupils attending 25132
nonpublic schools within the district. Such services shall be 25133
provided in the public school, in nonpublic schools, in public 25134
centers, or in mobile units located on or off of the nonpublic 25135
premises. If such services are provided in the public school or in 25136
public centers, transportation to and from such facilities shall 25137
be provided by the school district in which the nonpublic school 25138
is located. 25139

(H) To supply for use by pupils attending nonpublic schools 25140
within the district such standardized tests and scoring services 25141
as are in use in the public schools of the state; 25142

(I) To provide programs for children who attend nonpublic 25143
schools within the district and are handicapped children as 25144
defined in division (A) of section 3323.01 of the Revised Code or 25145
gifted children. Such programs shall be provided in the public 25146
school, in nonpublic schools, in public centers, or in mobile 25147
units located on or off of the nonpublic premises. If such 25148
programs are provided in the public school or in public centers, 25149
transportation to and from such facilities shall be provided by 25150
the school district in which the nonpublic school is located. 25151

(J) To hire clerical personnel to assist in the 25152

administration of programs pursuant to divisions (B), (C), (D), 25153
(E), (F), (G), and (I) of this section and to hire supervisory 25154
personnel to supervise the providing of services and textbooks 25155
pursuant to this section. 25156

(K) To purchase or lease any secular, neutral, and 25157
nonideological computer software (including site-licensing), 25158
prerecorded video laserdiscs, digital video on demand (DVD), 25159
compact discs, and video cassette cartridges, wide area 25160
connectivity and related technology as it relates to internet 25161
access, mathematics or science equipment and materials, 25162
instructional materials, and school library materials that are in 25163
general use in the public schools of the state and loan such items 25164
to pupils attending nonpublic schools within the district or to 25165
their parents, and to hire clerical personnel to administer the 25166
lending program. Only such items that are incapable of diversion 25167
to religious use and that are susceptible of loan to individual 25168
pupils and are furnished for the use of individual pupils shall be 25169
purchased and loaned under this division. As used in this section, 25170
"instructional materials" means prepared learning materials that 25171
are secular, neutral, and nonideological in character and are of 25172
benefit to the instruction of school children, and may include 25173
educational resources and services developed by the eTech Ohio 25174
~~schoolnet~~ commission. 25175

(L) To purchase or lease instructional equipment, including 25176
computer hardware and related equipment in general use in the 25177
public schools of the state, for use by pupils attending nonpublic 25178
schools within the district and to loan such items to pupils 25179
attending nonpublic schools within the district or to their 25180
parents, and to hire clerical personnel to administer the lending 25181
program. 25182

(M) To purchase mobile units to be used for the provision of 25183
services pursuant to divisions (E), (F), (G), and (I) of this 25184

section and to pay for necessary repairs and operating costs 25185
associated with these units. 25186

Clerical and supervisory personnel hired pursuant to division 25187
(J) of this section shall perform their services in the public 25188
schools, in nonpublic schools, public centers, or mobile units 25189
where the services are provided to the nonpublic school pupil, 25190
except that such personnel may accompany pupils to and from the 25191
service sites when necessary to ensure the safety of the children 25192
receiving the services. 25193

All services provided pursuant to this section may be 25194
provided under contract with educational service centers, the 25195
department of health, city or general health districts, or private 25196
agencies whose personnel are properly licensed by an appropriate 25197
state board or agency. 25198

Transportation of pupils provided pursuant to divisions (E), 25199
(F), (G), and (I) of this section shall be provided by the school 25200
district from its general funds and not from moneys paid to it 25201
under division (L) of section 3317.024 of the Revised Code unless 25202
a special transportation request is submitted by the parent of the 25203
child receiving service pursuant to such divisions. If such an 25204
application is presented to the school district, it may pay for 25205
the transportation from moneys paid to it under division (L) of 25206
section 3317.024 of the Revised Code. 25207

No school district shall provide health or remedial services 25208
to nonpublic school pupils as authorized by this section unless 25209
such services are available to pupils attending the public schools 25210
within the district. 25211

Materials, equipment, computer hardware or software, 25212
textbooks, electronic textbooks, and health and remedial services 25213
provided for the benefit of nonpublic school pupils pursuant to 25214
this section and the admission of pupils to such nonpublic schools 25215

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, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and

services, and under which any unexpended balance of the amounts 25247
appropriated by the general assembly to implement this section may 25248
be transferred to the auxiliary services personnel unemployment 25249
compensation fund established pursuant to section 4141.47 of the 25250
Revised Code. The department shall also adopt guidelines and 25251
procedures limiting the purchase and loan of the items described 25252
in division (K) of this section to items that are in general use 25253
in the public schools of the state, that are incapable of 25254
diversion to religious use, and that are susceptible to individual 25255
use rather than classroom use. Within thirty days after the end of 25256
each biennium, each board of education shall remit to the 25257
department all moneys paid to it under division (L) of section 25258
3317.024 of the Revised Code and any interest earned on those 25259
moneys that are not required to pay expenses incurred under this 25260
section during the biennium for which the money was appropriated 25261
and during which the interest was earned. If a board of education 25262
subsequently determines that the remittal of moneys leaves the 25263
board with insufficient money to pay all valid expenses incurred 25264
under this section during the biennium for which the remitted 25265
money was appropriated, the board may apply to the department of 25266
education for a refund of money, not to exceed the amount of the 25267
insufficiency. If the department determines the expenses were 25268
lawfully incurred and would have been lawful expenditures of the 25269
refunded money, it shall certify its determination and the amount 25270
of the refund to be made to the director of job and family 25271
services who shall make a refund as provided in section 4141.47 of 25272
the Revised Code. 25273

Sec. 3317.063. The superintendent of public instruction, in 25274
accordance with rules adopted by the department of education, 25275
shall annually reimburse each chartered nonpublic school for the 25276
actual mandated service administrative and clerical costs incurred 25277
by such school during the preceding school year in preparing, 25278

maintaining, and filing reports, forms, and records, and in 25279
providing such other administrative and clerical services that are 25280
not an integral part of the teaching process as may be required by 25281
state law or rule or by requirements duly promulgated by city, 25282
exempted village, or local school districts. The mandated service 25283
costs reimbursed pursuant to this section shall include, but are 25284
not limited to, the preparation, filing and maintenance of forms, 25285
reports, or records and other clerical and administrative services 25286
relating to state chartering or approval of the nonpublic school, 25287
pupil attendance, pupil health and health testing, transportation 25288
of pupils, federally funded education programs, pupil appraisal, 25289
pupil progress, educator licensure, unemployment and workers' 25290
compensation, transfer of pupils, and such other education related 25291
data which are now or hereafter shall be required of such 25292
nonpublic school by state law or rule, or by requirements of the 25293
state department of education, other state agencies, or city, 25294
exempted village, or local school districts. 25295

The reimbursement required by this section shall be for 25296
school years beginning on or after July 1, 1981. 25297

Each nonpublic school which seeks reimbursement pursuant to 25298
this section shall submit to the superintendent of public 25299
instruction an application together with such additional reports 25300
and documents as the department of education may require. Such 25301
application, reports, and documents shall contain such information 25302
as the department of education may prescribe in order to carry out 25303
the purposes of this section. No payment shall be made until the 25304
superintendent of public instruction has approved such 25305
application. 25306

Each nonpublic school which applies for reimbursement 25307
pursuant to this section shall maintain a separate account or 25308
system of accounts for the expenses incurred in rendering the 25309

required services for which reimbursement is sought. Such accounts 25310
shall contain such information as is required by the department of 25311
education and shall be maintained in accordance with rules adopted 25312
by the department of education. 25313

Reimbursement payments to a nonpublic school pursuant to this 25314
section shall not exceed an amount for each school year equal to 25315
two hundred ~~fifty~~ seventy-five dollars per pupil enrolled in that 25316
nonpublic school. 25317

The superintendent of public instruction may, from time to 25318
time, examine any and all accounts and records of a nonpublic 25319
school which have been maintained pursuant to this section in 25320
support of an application for reimbursement, for the purpose of 25321
determining the costs to such school of rendering the services for 25322
which reimbursement is sought. If after such audit it is 25323
determined that any school has received funds in excess of the 25324
actual cost of providing such services, said school shall 25325
immediately reimburse the state in such excess amount. 25326

Any payments made to chartered nonpublic schools under this 25327
section may be disbursed without submission to and approval of the 25328
controlling board. 25329

Sec. 3317.081. (A) Tuition shall be computed in accordance 25330
with this section if: 25331

(1) The tuition is required by division (C)(3)(b) of section 25332
3313.64 of the Revised Code; or 25333

(2) Neither the child nor the child's parent resides in this 25334
state and tuition is required by section 3327.06 of the Revised 25335
Code. 25336

(B) Tuition computed in accordance with this section shall 25337
equal the attendance district's tuition rate computed under 25338
section 3317.08 of the Revised Code plus the amount that district 25339

would have received for the child pursuant to sections 3317.022, 25340
3317.023, and 3317.025 to ~~3317.0213~~ 3317.0211 of the Revised Code 25341
during the school year had the attendance district been authorized 25342
to count the child in its formula ADM for that school year under 25343
section 3317.03 of the Revised Code. 25344

Sec. 3317.09. All moneys distributed to a school district, 25345
including any cooperative education or joint vocational school 25346
district and all moneys distributed to any educational service 25347
center, by the state whether from a state or federal source, shall 25348
be accounted for by the division of school finance of the 25349
department of education. All moneys distributed shall be coded as 25350
to county, school district or educational service center, source, 25351
and other pertinent information, and at the end of each month, a 25352
report of such distribution shall be made by such division of 25353
school finance ~~to the clerk of the senate and the chief~~ 25354
~~administrative officer of the house of representatives, to the~~ 25355
~~Ohio legislative service commission to be available for~~ 25356
~~examination by any member of either house,~~ to each school district 25357
and educational service center, ~~and to the governor.~~ 25358

~~On or before the first day of September in each year, a copy~~ 25359
~~of the annual statistical report required in section 3319.33 of~~ 25360
~~the Revised Code shall be filed by the state board of education~~ 25361
~~with the clerk of the senate and the chief administrative officer~~ 25362
~~of the house of representatives, the Ohio legislative service~~ 25363
~~commission, the governor, and the auditor of state. The report~~ 25364
~~shall contain an analysis for the prior fiscal year on an accrual~~ 25365
~~basis of revenue receipts from all sources and expenditures for~~ 25366
~~all purposes for each school district, including each joint~~ 25367
~~vocational and cooperative education school district, in the~~ 25368
state. If any board of education fails to make the report required 25369
in section 3319.33 of the Revised Code, the superintendent of 25370

public instruction shall be without authority to distribute funds 25371
to that school district or educational service center pursuant to 25372
sections 3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 25373
3317.17, or 3317.19 of the Revised Code until such time as the 25374
required reports are filed with all specified officers, boards, or 25375
agencies. 25376

Sec. 3317.10. (A) On or before the first day of March of each 25377
year, the department of job and family services shall certify to 25378
the state board of education the unduplicated number of children 25379
ages five through seventeen residing in each school district and 25380
living in a family that, during the preceding October, ~~had family~~ 25381
~~income not exceeding the federal poverty guidelines as defined in~~ 25382
~~section 5101.46 of the Revised Code and participated in one of the~~ 25383
~~following:~~ 25384

~~(1) Ohio works first;~~ 25385

~~(2) The food stamp program;~~ 25386

~~(3) The medical assistance program, including the healthy 25387
start program, established under Chapter 5111. of the Revised 25388
Code;~~ 25389

~~(4) The children's health insurance program part I 25390
established under section 5101.50 of the Revised Code;~~ 25391

~~(5) The disability financial assistance program established 25392
under Chapter 5115. of the Revised Code;~~ 25393

~~(6) The disability medical assistance program established 25394
under Chapter 5115. of the Revised Code.~~ 25395

The department of job and family services shall certify this 25396
information according to the school district of residence for each 25397
child. Except as provided under division (B) of this section, the 25398
number of children so certified in any year shall be used by the 25399
department of education in calculating the distribution of moneys 25400

for the ensuing fiscal year as provided in section 3317.029 of the Revised Code. 25401
25402

(B) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number of children certified under division (A) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of such children who reside in the district. Within sixty days of receipt of a request for information from the department of education, the department of job and family services shall provide any information the department of education determines is necessary to make such adjustments. The department of education may use the adjusted number for any district for the applicable fiscal year, in lieu of the number certified for the district for that fiscal year under division (A) of this section, in the calculation of the distribution of moneys provided in section 3317.029 of the Revised Code. 25403
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Sec. 3317.16. (A) As used in this section: 25419

(1) "State share percentage" means the percentage calculated for a joint vocational school district as follows: 25420
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(a) Calculate the state base cost funding amount for the district under division (B) of this section. If the district would not receive any base cost funding for that year under that division, the district's state share percentage is zero. 25422
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(b) If the district would receive base cost funding under that division, divide that base cost amount by an amount equal to the following: 25426
25427
25428

~~cost of doing business factor X~~ 25429

the formula amount X 25430

formula ADM 25431

The resultant number is the district's state share
percentage. 25432
25433

(2) The "total special education weight" for a joint
vocational school district shall be calculated in the same manner 25434
as prescribed in division (B)(1) of section 3317.022 of the 25435
Revised Code. 25436
25437

(3) The "total vocational education weight" for a joint 25438
vocational school district shall be calculated in the same manner 25439
as prescribed in division (B)(4) of section 3317.022 of the 25440
Revised Code. 25441

(4) The "total recognized valuation" of a joint vocational 25442
school district shall be determined by adding the recognized 25443
valuations of all its constituent school districts for the 25444
applicable fiscal year. 25445

(5) "Resident district" means the city, local, or exempted 25446
village school district in which a student is entitled to attend 25447
school under section 3313.64 or 3313.65 of the Revised Code. 25448

(6) "Community school" means a community school established 25449
under Chapter 3314. of the Revised Code. 25450

(B) The department of education shall compute and distribute 25451
state base cost funding to each joint vocational school district 25452
for the fiscal year in accordance with division (B) of this 25453
section. 25454

(1) Compute the following formula for each eligible district: 25455
~~(cost of doing business factor X~~ 25456
formula amount X 25457
formula ADM) - 25458
(.0005 X total recognized valuation) 25459

If the difference obtained under this division is a negative 25460

number, the district's computation shall be zero. 25461

(2) Compute both of the following for each district: 25462

(a) The difference of (i) the district's fiscal year 2005 25463
base cost payment under the version of division (B) of this 25464
section in effect in fiscal year 2005, minus (ii) the amount 25465
computed for the district for the current fiscal year under 25466
current division (B)(1) of this section; 25467

(b) The following amount: 25468

[(fiscal year 2005 base cost payment/fiscal year 2005 formula 25469
ADM) X current year formula ADM] minus the amount computed for 25470
the district under current division (B)(1) of this section 25471

If one of the amounts computed under division (B)(2)(a) or 25472
(b) of this section is a positive amount, the department shall pay 25473
the district that amount in addition to the amount calculated 25474
under division (B)(1) of this section. If both amounts are 25475
positive amounts, the department shall pay the district the lesser 25476
of the two amounts in addition to the amount calculated under 25477
division (B)(1) of this section. 25478

(C)(1) The department shall compute and distribute state 25479
vocational education additional weighted costs funds to each joint 25480
vocational school district in accordance with the following 25481
formula: 25482

state share percentage X formula amount X 25483
total vocational education weight 25484

In each fiscal year, a joint vocational school district 25485
receiving funds under division (C)(1) of this section shall spend 25486
those funds only for the purposes the department designates as 25487
approved for vocational education expenses. Vocational educational 25488
expenses approved by the department shall include only expenses 25489
connected to the delivery of career-technical programming to 25490
career-technical students. The department shall require the joint 25491

vocational school district to report data annually so that the
department may monitor the district's compliance with the
requirements regarding the manner in which funding received under
division (C)(1) of this section may be spent.

(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" 25523
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 25524
~~and 2005, 2006, and 2007.~~ 25525

(b) For the provision of speech language pathology services 25526
to students, including students who do not have individualized 25527
education programs prepared for them under Chapter 3323. of the 25528
Revised Code, and for no other purpose, the department shall pay 25529
each joint vocational school district an amount calculated under 25530
the following formula: 25531

(formula ADM divided by 2000) X the personnel 25532
allowance X state share percentage 25533

(3) In any fiscal year, a joint vocational school district 25534
shall spend for purposes that the department designates as 25535
approved for special education and related services expenses at 25536
least the amount calculated as follows: 25537

~~(cost of doing business factor X formula amount~~ 25538
X the sum of categories one through 25539
six special education ADM) + 25540
(total special education weight X 25541
formula amount) 25542

The purposes approved by the department for special education 25543
expenses shall include, but shall not be limited to, compliance 25544
with state rules governing the education of handicapped children, 25545
providing services identified in a student's individualized 25546
education program as defined in section 3323.01 of the Revised 25547
Code, provision of speech language pathology services, and the 25548
portion of the district's overall administrative and overhead 25549
costs that are attributable to the district's special education 25550
student population. 25551

The department shall require joint vocational school 25552
districts to report data annually to allow for monitoring 25553

compliance with division (D)(3) of this section. The department 25554
shall annually report to the governor and the general assembly the 25555
amount of money spent by each joint vocational school district for 25556
special education and related services. 25557

(4) In any fiscal year, a joint vocational school district 25558
shall spend for the provision of speech language pathology 25559
services not less than the sum of the amount calculated under 25560
division (D)(1) of this section for the students in the district's 25561
category one special education ADM and the amount calculated under 25562
division (D)(2) of this section. 25563

(E)(1) If a joint vocational school district's costs for a 25564
fiscal year for a student in its categories two through six 25565
special education ADM exceed the threshold catastrophic cost for 25566
serving the student, as specified in division (C)(3)(b) of section 25567
3317.022 of the Revised Code, the district may submit to the 25568
superintendent of public instruction documentation, as prescribed 25569
by the superintendent, of all of its costs for that student. Upon 25570
submission of documentation for a student of the type and in the 25571
manner prescribed, the department shall pay to the district an 25572
amount equal to the sum of the following: 25573

(a) One-half of the district's costs for the student in 25574
excess of the threshold catastrophic cost; 25575

(b) The product of one-half of the district's costs for the 25576
student in excess of the threshold catastrophic cost multiplied by 25577
the district's state share percentage. 25578

(2) The district shall only report under division (E)(1) of 25579
this section, and the department shall only pay for, the costs of 25580
educational expenses and the related services provided to the 25581
student in accordance with the student's individualized education 25582
program. Any legal fees, court costs, or other costs associated 25583
with any cause of action relating to the student may not be 25584

included in the amount. 25585

(F) Each fiscal year, the department shall pay each joint 25586
vocational school district an amount for adult technical and 25587
vocational education and specialized consultants. 25588

(G)(1) A joint vocational school district's local share of 25589
special education and related services additional weighted costs 25590
equals: 25591

(1 - state share percentage) X 25592
Total special education weight X 25593
the formula amount 25594

(2) For each handicapped student receiving special education 25595
and related services under an individualized education program, as 25596
defined in section 3323.01 of the Revised Code, at a joint 25597
vocational district, the resident district or, if the student is 25598
enrolled in a community school, the community school shall be 25599
responsible for the amount of any costs of providing those special 25600
education and related services to that student that exceed the sum 25601
of the amount calculated for those services attributable to that 25602
student under divisions (B), (D), (E), and (G)(1) of this section. 25603

Those excess costs shall be calculated by subtracting the sum 25604
of the following from the actual cost to provide special education 25605
and related services to the student: 25606

(a) ~~The product of the formula amount times the~~ 25607
~~cost-of-doing-business-factor;~~ 25608

(b) The product of the formula amount times the applicable 25609
multiple specified in section 3317.013 of the Revised Code; 25610

(c) Any funds paid under division (E) of this section for the 25611
student; 25612

(d) Any other funds received by the joint vocational school 25613
district under this chapter to provide special education and 25614

related services to the student, not including the amount
calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school
district ~~shall~~ may report the excess costs calculated under
division (G)(2) of this section to the department of education.

(4) ~~The~~ If the board of education of the joint vocational
school district reports excess costs under division (G)(3) of this
section, the department shall pay the amount of excess cost
calculated under division (G)(2) of this section to the joint
vocational school district and shall deduct that amount as
provided in division (G)(4)(a) or (b) of this section, as
applicable:

(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.

(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.

~~(H) In any fiscal year, if the total of all payments made to
a joint vocational school district under divisions (B) to (D) of
this section and division (R) of section 3317.024 of the Revised
Code is less than the amount that district received in fiscal year
1999 under the version of this section in effect that year, plus
the amount that district received under the version of section
3317.162 of the Revised Code in effect that year and minus the
amounts received that year for driver education and adult
education, the department shall pay the district an additional
amount equal to the difference between those two amounts.~~

Sec. 3317.20. This section does not apply to handicapped

preschool children. 25645

(A) As used in this section: 25646

(1) "Applicable weight" means the multiple specified in 25647
section 3317.013 of the Revised Code for a handicap described in 25648
that section. 25649

(2) "Child's school district" means the school district in 25650
which a child is entitled to attend school pursuant to section 25651
3313.64 or 3313.65 of the Revised Code. 25652

(3) "State share percentage" means the state share percentage 25653
of the child's school district as defined in section 3317.022 of 25654
the Revised Code. 25655

(B) Except as provided in division (C) of this section, the 25656
department shall annually pay each county MR/DD board ~~an amount~~ 25657
~~calculated under the following formula~~ for each handicapped child, 25658
other than a handicapped preschool child, for whom the county 25659
MR/DD board provides special education and related services the 25660
greater of the amount calculated under division (B)(1) or (2) of 25661
this section: 25662

~~(formula amount X the cost of doing business factor~~ 25663
~~for the child's school district) +~~ 25664

~~(state share percentage X formula amount X~~ 25665
~~the applicable weight)~~ 25666

(1) (The formula amount for fiscal year 2005 X the 25667
cost-of-doing-business factor for the child's school district for 25668
fiscal year 2005) + (state share percentage for fiscal year 2005 X 25669
formula amount for fiscal year 2005 X the applicable weight); 25670

(2) The formula amount + (state share percentage X formula 25671
amount X the applicable weight). 25672

(C) If any school district places with a county MR/DD board 25673
more handicapped children than it had placed with a county MR/DD 25674

board in fiscal year 1998, the department shall not make a payment 25675
under division (B) of this section for the number of children 25676
exceeding the number placed in fiscal year 1998. The department 25677
instead shall deduct from the district's payments under this 25678
chapter, and pay to the county MR/DD board, an amount calculated 25679
in accordance with the formula prescribed in division (B) of this 25680
section for each child over the number of children placed in 25681
fiscal year 1998. 25682

(D) The department shall calculate for each county MR/DD 25683
board receiving payments under divisions (B) and (C) of this 25684
section the following amounts: 25685

(1) The amount received by the county MR/DD board for 25686
approved special education and related services units, other than 25687
preschool handicapped units, in fiscal year 1998, divided by the 25688
total number of children served in the units that year; 25689

(2) The product of the quotient calculated under division 25690
(D)(1) of this section times the number of children for whom 25691
payments are made under divisions (B) and (C) of this section. 25692

If the amount calculated under division (D)(2) of this 25693
section is greater than the total amount calculated under 25694
divisions (B) and (C) of this section, the department shall pay 25695
the county MR/DD board one hundred per cent of the difference in 25696
addition to the payments under divisions (B) and (C) of this 25697
section. 25698

Sec. 3317.201. This section does not apply to handicapped 25699
preschool children. 25700

(A) As used in this section, the "total special education 25701
weight" for an institution means the sum of the following amounts: 25702

(1) The number of children reported by the institution under 25703
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 25704

<u>receiving services for a handicap described in division (A) of</u>	25705
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25706
<u>specified in that division;</u>	25707
<u>(2) The number of children reported by the institution under</u>	25708
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25709
<u>receiving services for a handicap described in division (B) of</u>	25710
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25711
<u>specified in that division;</u>	25712
<u>(3) The number of children reported by the institution under</u>	25713
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25714
<u>receiving services for a handicap described in division (C) of</u>	25715
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25716
<u>specified in that division;</u>	25717
<u>(4) The number of children reported by the institution under</u>	25718
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25719
<u>receiving services for a handicap described in division (D) of</u>	25720
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25721
<u>specified in that division;</u>	25722
<u>(5) The number of children reported by the institution under</u>	25723
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25724
<u>receiving services for a handicap described in division (E) of</u>	25725
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25726
<u>specified in that division;</u>	25727
<u>(6) The number of children reported by the institution under</u>	25728
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25729
<u>receiving services for a handicap described in division (F) of</u>	25730
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25731
<u>specified in that division.</u>	25732
<u>(B) The department of education annually shall pay each state</u>	25733
<u>institution required to provide special education services under</u>	25734
<u>division (A) of section 3323.091 of the Revised Code an amount</u>	25735

equal to the greater of: 25736

(1) The formula amount times the institution's total special 25737
education weight; 25738

(2) The aggregate amount of special education and related 25739
services unit funding the institution received for all handicapped 25740
children other than handicapped preschool children in fiscal year 25741
2005 under sections 3317.052 and 3317.053 of the Revised Code, as 25742
those sections existed prior to the effective date of this 25743
section. 25744

Sec. 3317.50. The eTech Ohio ~~schoolnet~~ telecommunity 25745
education fund is hereby created in the state treasury. The fund 25746
shall consist of certain excess local exchange telephone company 25747
contributions transferred from the reserve fund of the Ohio 25748
telecommunications advisory board pursuant to an agreement between 25749
the public utilities commission of Ohio and the Ohio department of 25750
education. The fund shall be used to finance technology grants to 25751
state-chartered elementary and secondary schools. Investment 25752
earnings of the fund shall be credited to the fund. 25753

Sec. 3317.51. (A) The distance learning fund is hereby 25754
created in the state treasury. The fund shall consist of moneys 25755
paid to the eTech Ohio ~~SchoolNet~~ commission by any telephone 25756
company as a part of a settlement agreement between such company 25757
and the public utilities commission in fiscal year 1995 in part to 25758
establish distance learning throughout the state. The ~~authority~~ 25759
commission shall administer the fund and expend moneys from it to 25760
finance technology grants to eligible schools chartered by the 25761
state board of education to establish distance learning in those 25762
schools. Chartered schools are eligible for funds if they are 25763
within the service area of the telephone company. Investment 25764
earnings of the fund shall be credited to the fund. 25765

(B) For purposes of this section, "distance learning" means 25766
the creation of a learning environment involving a school setting 25767
and at least one other location outside of the school which allows 25768
for information available at one site to be accessed at the other 25769
through the use of such educational applications as one-way or 25770
two-way transmission of data, voice, and video, singularly or in 25771
appropriate combinations. 25772

Sec. 3318.091. (A) Promptly after the written agreement 25773
between the school district board and the Ohio school facilities 25774
commission has been entered into, the school district board shall 25775
proceed with the issuance of its bonds or notes in anticipation 25776
thereof pursuant to the provision of such agreement required by 25777
division (A) of section 3318.08 of the Revised Code and the 25778
deposit of the proceeds thereof in the school district's project 25779
construction fund pursuant to the provision of such agreement 25780
required by division (B) of section 3318.08 of the Revised Code, 25781
and the school district board, with the approval of the commission 25782
shall employ a qualified professional person or firm to prepare 25783
preliminary plans, working drawings, specifications, estimates of 25784
cost, and such data as the school district board and the 25785
commission consider necessary for the project. When the 25786
preliminary plans and preliminary estimates of cost have been 25787
prepared, and approved by the school district board, they shall be 25788
submitted to the commission for approval, modification, or 25789
rejection. The commission shall ensure that the plans and 25790
materials proposed for use in the project comply with 25791
specifications for plans and materials that shall be established 25792
by the commission. When such preliminary plans and preliminary 25793
estimates of cost and any modifications thereof have been approved 25794
by the commission and the school district board, the school 25795
district board shall cause such qualified professional person or 25796
firm to prepare the working drawings, specifications, and 25797

estimates of cost. 25798

(B) Whenever project plans submitted to the commission for approval under division (A) of this section propose to locate a facility on a state route or United States highway or within one mile of a state route or United States highway, the commission shall send a copy of the plans to the director of transportation. The director of transportation shall review the plans to determine the feasibility of the proposed ingress and egress to the facility, the traffic circulation pattern on roadways around the facility, and any improvements that would be necessary to conform the roadways to provisions of the manual adopted by the department of transportation pursuant to section 4511.09 of the Revised Code or state or federal law. The director of transportation shall provide a written summary of the director's findings to the commission in a timely manner. The commission shall consider the findings in deciding whether to approve the plans. 25799
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Sec. 3318.18. (A) As used in this section: 25814

(1) "Valuation" of a school district means the sum of the amounts described in divisions (A)(1) and (2) of section 3317.021 of the Revised Code as most recently certified for the district before the annual computation is made under division (B) of this section. 25815
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(2) "Valuation per pupil" of a school district means the district's valuation divided by the district's formula ADM as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (B) of this section. 25820
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(3) "Statewide average valuation per pupil" means the total of the valuations of all school districts divided by the total of the formula ADMs of all school districts as most recently reported for October under section 3317.03 of the Revised Code before the 25825
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annual computation is made under division (C) of this section. 25829

(4) "Maintenance levy requirement" means the tax required to 25830
be levied pursuant to division (C)(2)(a) of section 3318.08 and 25831
division (B) of section 3318.05 of the Revised Code or the 25832
application of proceeds of another levy to paying the costs of 25833
maintaining classroom facilities pursuant to division (A)(2) of 25834
section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, 25835
or division (D)(2) of section 3318.36 of the Revised Code, or a 25836
combination thereof. 25837

(5) "Project agreement" means an agreement between a school 25838
district and the Ohio school facilities commission under section 25839
3318.08 or division (B)(1) of section 3318.36 of the Revised Code. 25840

(B) On or before July 1, 2006, the department of education 25841
shall compute the statewide average valuation per pupil and the 25842
valuation per pupil of each school district, and provide them to 25843
the Ohio school facilities commission. On or before the first day 25844
of July each year beginning in 2007, the department of education 25845
shall compute the statewide average valuation per pupil and the 25846
valuation per pupil of each school district that has not already 25847
entered into a project agreement, and provide the results of those 25848
computations to the commission. 25849

(C)(1) At the time the Ohio school facilities commission 25850
enters into a project agreement with a school district, the 25851
commission shall compute the difference between the district's 25852
valuation per pupil and the statewide average valuation per pupil 25853
as most recently provided to the commission under division (B) of 25854
this section. If the school district's valuation per pupil is less 25855
than the average statewide valuation per pupil, the commission 25856
shall multiply the difference between those amounts by one-half 25857
mill times the formula ADM of the district as most recently 25858
reported to the department of education for October under division 25859

(A) of section 3317.03 of the Revised Code. The commission shall 25860
certify the resulting product to the department of education, 25861
along with the date on which the maintenance levy requirement 25862
terminates as provided in the project agreement between the school 25863
district board and the commission. 25864

(2) In the case of a school district that entered into a 25865
project agreement after July 1, 1997, but before July 1, 2006, the 25866
commission shall make the computation described in division (C)(1) 25867
of this section on the basis of the district's valuation per pupil 25868
and the statewide average valuation per pupil computed as of 25869
September 1, 2006, and the district's formula ADM reported for 25870
October 2005. 25871

(3) The amount computed for a school district under division 25872
(C)(1) or (2) of this section shall not change for the period 25873
during which payments are made to the district under division (D) 25874
of this section. 25875

(4) A computation need not be made under division (C)(1) or 25876
(2) of this section for a school district that certified a 25877
resolution to the commission under division (D)(3) of section 25878
3318.36 of the Revised Code until the district becomes eligible 25879
for state assistance as provided in that division. 25880

(D) In the fourth quarter of each fiscal year, for each 25881
school district for which a computation has been made under 25882
division (C) of this section, the department of education shall 25883
pay the amount computed to each such school district. Payments 25884
shall be made to a school district each year until and including 25885
the tax year in which the district's maintenance levy requirement 25886
terminates. Payments shall be paid from the half-mill equalization 25887
fund, subject to appropriation by the general assembly. 25888

(E) Payments made to a school district under this section 25889
shall be credited to the district's classroom facilities 25890

maintenance fund and shall be used only for the purpose of 25891
maintaining facilities constructed or renovated under the project 25892
agreement. 25893

(F) There is hereby created in the state treasury the 25894
half-mill equalization fund. The fund shall receive transfers 25895
pursuant to section 5727.85 of the Revised Code. The fund shall be 25896
used first to make annual payments under division (D) of this 25897
section. If a balance remains in the fund after such payments are 25898
made in full for a year, the Ohio school facilities commission may 25899
request the controlling board to transfer a reasonable amount from 25900
such remaining balance to the public school building fund created 25901
under section 3318.15 of the Revised Code for the purposes of this 25902
chapter. 25903

All investment earnings arising from investment of money in 25904
the half-mill equalization fund shall be credited to the fund. 25905

Sec. 3318.33. (A) There is hereby created in the state 25906
treasury the Ohio school facilities commission fund, which shall 25907
consist of transfers of moneys authorized by the general assembly 25908
and revenues received by the Ohio school facilities commission 25909
under section 3318.31 of the Revised Code. Investment earnings on 25910
moneys in the fund shall be credited to the fund. Moneys in the 25911
fund may be used by the commission to pay personnel and other 25912
administrative expenses, to pay the cost of conducting evaluations 25913
of classroom facilities, to pay the cost of preparing building 25914
design specifications, to pay the cost of providing project 25915
management services, and for other purposes determined by the 25916
commission to be necessary to fulfill its duties under ~~Chapter~~ 25917
~~3318. of the Revised Code~~ this chapter. 25918

(B) The director of budget and management may transfer to the 25919
Ohio school facilities commission fund the investment earnings on 25920
the public school building fund~~7~~, created in section 3318.15 of the 25921

Revised Code, the investment earnings on the education facilities trust fund created in section 183.26 of the Revised Code, or both. 25922
25923
The director of budget and management may transfer to the Ohio 25924
school facilities commission fund the investment earnings on the 25925
school building program assistance fund, created under section 25926
3318.25 of the Revised Code, in excess of the amounts needed to 25927
meet estimated federal arbitrage rebate requirements. 25928

Sec. ~~3317.21~~ 3318.47. There is hereby created in the state 25929
treasury the ~~vocational~~ career-technical school building 25930
assistance fund. Money in the fund shall be used solely to provide 25931
interest-free loans to school districts, including joint 25932
vocational school districts, under sections ~~3317.22~~ 3318.48 and 25933
~~3317.23~~ 3318.49 of the Revised Code to assist in financing the 25934
construction of new vocational classroom facilities, the 25935
renovation of existing vocational classroom facilities, or the 25936
purchase of vocational education equipment or facilities. Moneys 25937
in the fund shall consist of transfers made to the fund, any 25938
interest earned by the fund, and repayments of loans made under 25939
sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. 25940
Investment earnings of the fund shall be credited to the fund. 25941

Sec. ~~3317.22~~ 3318.48. The ~~state board of education~~ Ohio 25942
school facilities commission shall adopt rules in accordance with 25943
Chapter 119. of the Revised Code under which, in any fiscal year 25944
that funds are appropriated from the ~~vocational~~ career-technical 25945
school building assistance fund for such purpose, the ~~state board~~ 25946
commission may make interest-free loans to school districts. The 25947
rules shall include all of the following: 25948

(A) Application procedures, including the date by which 25949
applications shall be made; 25950

(B) Eligibility criteria, which shall include at least the 25951

following provisions: 25952

(1) A requirement that an applicant district demonstrate 25953
financial need for the loan. Indicators of need may include, but 25954
need not be limited to, levels of assessed valuation, enrollment 25955
levels and enrollment changes, ability of the district to maintain 25956
minimum educational standards, and demonstrated good faith efforts 25957
by the district to secure funds from sources other than the state. 25958

(2) A requirement that an applicant district demonstrate the 25959
ability to repay the loan within the maximum period permitted by 25960
division (D) of this section; 25961

(3) A requirement that an applicant district is not eligible 25962
for a loan, other than a loan for the purchase of any vocational 25963
education equipment that is not an approved project cost under 25964
this chapter, if the district, on the date of application for the 25965
loan, has at any time received any state assistance under sections 25966
3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 25967
3318.40 to 3318.45 of the Revised Code or is reasonably expected 25968
to receive state assistance under any of those sections within 25969
three fiscal years; 25970

(4) A requirement that an applicant district agree to comply 25971
with all applicable design specifications and policies of the 25972
commission established pursuant to this chapter in the 25973
construction, renovation, or purchase of facilities or equipment 25974
paid for with the loan, unless such specifications or policies are 25975
waived by the commission. 25976

(C) Loan approval procedures and criteria, including criteria 25977
for prioritizing eligible applications. Criteria for such 25978
prioritization shall include: 25979

(1) Preference for applicant districts that demonstrate 25980
commitment and innovative approaches to the implementation of the 25981
department of education's vocational education modernization plan 25982

pursuant to section 3313.901 of the Revised Code; 25983

(2) Preference for applicant districts that have entered into 25984
or are in the process of entering into cooperative agreements with 25985
technical colleges or other institutions of higher education 25986
either to coordinate secondary vocational education and 25987
post-secondary technical education programs, or to share 25988
facilities and equipment. 25989

(D) Provisions governing the repayment of loans, including a 25990
provision that loans for construction, acquisition, or renovation 25991
of facilities shall be repaid within a maximum of fifteen years 25992
and loans for vocational education equipment shall be repaid 25993
within a maximum of five years; 25994

(E) A requirement that no loan shall be applied to the local 25995
resources a district expends as a condition of participation in a 25996
program established under section 3318.36 or 3318.46 of the 25997
Revised Code. 25998

Sec. ~~3317.23~~ 3318.49. The ~~state board of education~~ Ohio 25999
school facilities commission shall enter into a loan agreement 26000
with each school district it approves for a loan under section 26001
~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify 26002
the amount of the loan, the purposes for which it is to be used, 26003
the duration of the loan, and the repayment schedule. Every such 26004
agreement shall contain a provision ~~authorizing~~ directing the 26005
state board of education, upon the request of the executive 26006
director of the commission, to deduct from payments due to the 26007
district under Chapter 3317. of the Revised Code or from any other 26008
funds appropriated to the district by the general assembly, the 26009
amount of any scheduled loan payment due but not paid by the 26010
district and, within ten days, to transfer that amount to the 26011
commission. 26012

A copy of each loan agreement shall be furnished to the 26013
controlling board. No money shall be released from the ~~vocational~~ 26014
career-technical school building assistance fund without the 26015
approval of the controlling board. 26016

Sec. 3319.06. (A) The board of education of each city, 26017
exempted village, or local school district may create the position 26018
of internal auditor. Any person employed by the board as an 26019
internal auditor shall hold a valid permit issued under section 26020
4701.10 of the Revised Code to practice as a certified public 26021
accountant or a public accountant. 26022

(B) The board shall execute a written contract of employment 26023
with each internal auditor it employs. The contract shall specify 26024
the internal auditor's duties, the salary and other compensation 26025
to be paid for performance of those duties, the number of days to 26026
be worked, the number of days of vacation leave, if any, and any 26027
paid holidays in the contractual year. The salary and other 26028
compensation prescribed by the contract may be increased by the 26029
board during the term of the contract but shall not be reduced 26030
during that term unless such reduction is part of a uniform plan 26031
affecting employees of the entire district. The term of the 26032
initial contract shall not exceed three years. Any renewal of the 26033
contract shall be for a term of not less than two years and not 26034
more than five years. 26035

The internal auditor shall be directly responsible to the 26036
board for the performance of all duties outlined in the contract. 26037
If the board does not intend to renew the contract upon its 26038
expiration, the board shall provide written notice to the internal 26039
auditor of its intention not to renew the contract not later than 26040
the last day of March of the year in which the contract expires. 26041
If the board does not provide such notice by that date, the 26042
internal auditor shall be deemed reemployed for a term of one year 26043

at the same salary plus any increments that may be authorized by 26044
the board. Termination of an internal auditor's contract shall be 26045
pursuant to section 3319.16 of the Revised Code. 26046

(C) Each board that employs an internal auditor shall adopt 26047
procedures for the evaluation of the internal auditor and shall 26048
evaluate the internal auditor in accordance with those procedures. 26049
The evaluation based upon the procedures shall be considered by 26050
the board in deciding whether to renew the internal auditor's 26051
contract of employment. The establishment of an evaluation 26052
procedure shall not create an expectancy of continued employment. 26053
Nothing in this section shall prevent the board from making the 26054
final determination regarding the renewal or nonrenewal of the 26055
contract of an internal auditor. 26056

Sec. 3319.081. Except as otherwise provided in division (G) 26057
of this section, in all school districts wherein the provisions of 26058
Chapter 124. of the Revised Code do not apply, the following 26059
employment contract system shall control for employees whose 26060
contracts of employment are not otherwise provided by law: 26061

(A) Newly hired regular nonteaching school employees, 26062
including regular hourly rate and per diem employees, shall enter 26063
into written contracts for their employment which shall be for a 26064
period of not more than one year. If such employees are rehired, 26065
their subsequent contract shall be for a period of two years. 26066

(B) After the termination of the two-year contract provided 26067
in division (A) of this section, if the contract of a nonteaching 26068
employee is renewed, the employee shall be continued in 26069
employment, and the salary provided in the contract may be 26070
increased but not reduced unless such reduction is a part of a 26071
uniform plan affecting the nonteaching employees of the entire 26072
district. 26073

(C) The contracts as provided for in this section may be 26074
terminated by a majority vote of the board of education. ~~Such~~ 26075
Except as provided in sections 3319.0810 and 3319.172 of the 26076
Revised Code, the contracts may be terminated only for violation 26077
of written rules and regulations as set forth by the board of 26078
education or for incompetency, inefficiency, dishonesty, 26079
drunkenness, immoral conduct, insubordination, discourteous 26080
treatment of the public, neglect of duty, or any other acts of 26081
misfeasance, malfeasance, or nonfeasance. In addition to the right 26082
of the board of education to terminate the contract of an 26083
employee, the board may suspend an employee for a definite period 26084
of time or demote the employee for the reasons set forth in this 26085
division. The action of the board of education terminating the 26086
contract of an employee or suspending or demoting ~~him~~ the employee 26087
shall be served upon the employee by certified mail. Within ten 26088
days following the receipt of such notice by the employee, the 26089
employee may file an appeal, in writing, with the court of common 26090
pleas of the county in which such school board is situated. After 26091
hearing the appeal the common pleas court may affirm, disaffirm, 26092
or modify the action of the school board. 26093

A violation of division (A)(7) of section 2907.03 of the 26094
Revised Code is grounds for termination of employment of a 26095
nonteaching employee under this division. 26096

(D) All employees who have been employed by a school district 26097
where the provisions of Chapter 124. of the Revised Code do not 26098
apply, for a period of at least three years on November 24, 1967, 26099
shall hold continuing contracts of employment pursuant to this 26100
section. 26101

(E) Any nonteaching school employee may terminate ~~his~~ the 26102
nonteaching school employee's contract of employment thirty days 26103
subsequent to the filing of a written notice of such termination 26104
with the treasurer of the board. 26105

(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section.

(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which ~~he~~ the employee is employed is officially closed for the reasons set forth in this division.

Sec. 3319.0810. (A) The board of education of any school district wherein the provisions of Chapter 124. of the Revised Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into only if all of the following conditions are satisfied:

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in conformance with those provisions.

(2) The board permits any employee whose position is

terminated under this section to fill any vacancy within the 26137
district's organization for which the employee is qualified. The 26138
board shall select from among similarly qualified employees to 26139
fill such vacancies pursuant to procedures established under any 26140
collective bargaining agreement between the employee organization 26141
representing the terminated employees and the board that is in 26142
force at the time of the termination, or in absence of such 26143
provisions on the basis of seniority of employment by the board 26144
with the employee with the greatest seniority having highest 26145
priority. 26146

(3) Unless a collective bargaining agreement between the 26147
employee organization representing the terminated employees and 26148
the board that is in force at the time of the termination provides 26149
otherwise, the board permits any employee whose position is 26150
terminated under this section to fill the employee's former 26151
position in the event that the board reinstates that position 26152
within one year after the date the position is terminated under 26153
this section. 26154

(4) The board permits any employee whose position is 26155
terminated under this section to appeal in accordance with section 26156
119.12 of the Revised Code the board's decision to terminate the 26157
employee's position, not to hire that employee for another 26158
position pursuant to division (A)(2) of this section, or not to 26159
rehire that employee for the position if it is reinstated within 26160
one year after the position is terminated pursuant to division 26161
(A)(3) of this section. 26162

(5) The contract entered into by the board and an independent 26163
agent for the provision of transportation services contains a 26164
stipulation requiring the agent to consider hiring any employees 26165
of the school district whose positions are terminated under this 26166
section for similar positions within the agent's organization. 26167

(6) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to recognize for purposes of employee representation in collective bargaining any employee organization that represented the employees whose positions are terminated under this section in collective bargaining with the board at the time of the termination provided: 26168
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(a) A majority of all employees in the bargaining unit agree to such representation; 26175
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(b) Such representation is not prohibited by federal law, including any ruling of the national labor relations board; 26177
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(c) The employee organization is not prohibited from representing nonpublic employees by other provisions of law or its own governing instruments. 26179
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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. 26182
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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 26186
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received by the employees during any time the board was in 26199
compliance with such conditions or during any time the board 26200
enforced those obligations. 26201

Any employee aggrieved by the failure of the board to comply 26202
with any condition prescribed in division (A) of this section or 26203
to enforce on the agent its contractual obligations prescribed in 26204
divisions (A)(5) and (6) of this section shall have the right to 26205
sue the board for reinstatement of the employee's former position 26206
as provided for in this division in the court of common pleas for 26207
the county in which the school district is located or, if the 26208
school district is located in more than one county, in the court 26209
of common pleas for the county in which the majority of the 26210
territory of the school district is located. 26211

Sec. 3319.17. (A) As used in this section, "interdistrict 26212
contract" means any contract or agreement entered into by an 26213
educational service center governing board and another board or 26214
other public entity pursuant to section 3313.17, 3313.841, 26215
3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, 26216
including any such contract or agreement for the provision of 26217
services funded under division (L) of section 3317.024 of the 26218
Revised Code or provided in any unit approved under section 26219
3317.05 of the Revised Code. 26220

(B) When, for any of the following reasons that apply to any 26221
city, exempted village, local, or joint vocational school district 26222
or any educational service center, the board decides that it will 26223
be necessary to reduce the number of teachers it employs, it may 26224
make a reasonable reduction: 26225

(1) In the case of any district or service center, return to 26226
duty of regular teachers after leaves of absence including leaves 26227
provided pursuant to division (B) of section 3314.10 of the 26228
Revised Code, suspension of schools, ~~or~~ territorial changes 26229

affecting the district or center, or financial reasons; 26230

(2) In the case of any city, exempted village, local, or 26231
joint vocational school district, decreased enrollment of pupils 26232
in the district; 26233

(3) In the case of any governing board of a service center 26234
providing any particular service directly to pupils pursuant to 26235
one or more interdistrict contracts requiring such service, 26236
reduction in the total number of pupils the governing board is 26237
required to provide with the service under all interdistrict 26238
contracts as a result of the termination or nonrenewal of one or 26239
more of these interdistrict contracts; 26240

(4) In the case of any governing board providing any 26241
particular service that it does not provide directly to pupils 26242
pursuant to one or more interdistrict contracts requiring such 26243
service, reduction in the total level of the service the governing 26244
board is required to provide under all interdistrict contracts as 26245
a result of the termination or nonrenewal of one or more of these 26246
interdistrict contracts. 26247

(C) In making any such reduction, any city, exempted village, 26248
local, or joint vocational school board shall proceed to suspend 26249
contracts in accordance with the recommendation of the 26250
superintendent of schools who shall, within each teaching field 26251
affected, give preference first to teachers on continuing 26252
contracts and then to teachers who have greater seniority. In 26253
making any such reduction, any governing board of a service center 26254
shall proceed to suspend contracts in accordance with the 26255
recommendation of the superintendent who shall, within each 26256
teaching field or service area affected, give preference first to 26257
teachers on continuing contracts and then to teachers who have 26258
greater seniority. 26259

On a case-by-case basis, in lieu of suspending a contract in 26260

whole, a board may suspend a contract in part, so that an 26261
individual is required to work a percentage of the time the 26262
employee otherwise is required to work under the contract and 26263
receives a commensurate percentage of the full compensation the 26264
employee otherwise would receive under the contract. 26265

The teachers whose continuing contracts are suspended by any 26266
board pursuant to this section shall have the right of restoration 26267
to continuing service status by that board in the order of 26268
seniority of service in the district or service center if and when 26269
teaching positions become vacant or are created for which any of 26270
such teachers are or become qualified. No teacher whose continuing 26271
contract has been suspended pursuant to this section shall lose 26272
that right of restoration to continuing service status by reason 26273
of having declined recall to a position that is less than 26274
full-time or, if the teacher was not employed full-time just prior 26275
to suspension of the teacher's continuing contract, to a position 26276
requiring a lesser percentage of full-time employment than the 26277
position the teacher last held while employed in the district or 26278
service center. 26279

(D) Notwithstanding any provision to the contrary in Chapter 26280
4117. of the Revised Code, the requirements of this section 26281
prevail over any conflicting provisions of agreements between 26282
employee organizations and public employers entered into after the 26283
effective date of this amendment. 26284

Sec. 3319.172. The board of education of each school district 26285
wherein the provisions of Chapter 124. of the Revised Code do not 26286
apply and the governing board of each educational service center 26287
may adopt a resolution ordering reasonable reductions in the 26288
number of nonteaching employees for any of the reasons for which 26289
the board of education or governing board may make reductions in 26290
teaching employees, as set forth in division (B) of section 26291

3319.17 of the Revised Code. 26292

In making any reduction under this section, the board of 26293
education or governing board shall proceed to suspend contracts in 26294
accordance with the recommendation of the superintendent of the 26295
district or service center who shall, within each pay 26296
classification affected, give preference first to employees under 26297
continuing contracts and then to employees on the basis of 26298
seniority. On a case-by-case basis, in lieu of suspending a 26299
contract in whole, a board may suspend a contract in part, so that 26300
an individual is required to work a percentage of the time the 26301
employee otherwise is required to work under the contract and 26302
receives a commensurate percentage of the full compensation the 26303
employee otherwise would receive under the contract. 26304

Any nonteaching employee whose continuing contract is 26305
suspended under this section shall have the right of restoration 26306
to continuing service status by the board of education or 26307
governing board that suspended that contract in order of seniority 26308
of service in the district or service center, if and when a 26309
nonteaching position for which the employee is qualified becomes 26310
vacant or is created. No nonteaching employee whose continuing 26311
contract has been suspended under this section shall lose that 26312
right of restoration to continuing service status by reason of 26313
having declined recall to a position requiring fewer regularly 26314
scheduled hours of work than required by the position the employee 26315
last held while employed in the district or service center. 26316

Notwithstanding any provision to the contrary in Chapter 26317
4117. of the Revised Code, the requirements of this section 26318
prevail over any conflicting provisions of agreements between 26319
employee organizations and public employers entered into after the 26320
effective date of this section. 26321

Sec. 3319.22. (A)(1) The state board of education shall adopt 26322

rules establishing the standards and requirements for obtaining 26323
temporary, associate, provisional, and professional educator 26324
licenses of any categories, types, and levels the board elects to 26325
provide. However, no educator license shall be required for 26326
teaching children two years old or younger. 26327

(2) If the state board requires any examinations for educator 26328
licensure, the department of education shall provide the results 26329
of such examinations received by the department to the Ohio board 26330
of regents, in the manner and to the extent permitted by state and 26331
federal law. 26332

(B) Any rules the state board of education adopts, amends, or 26333
rescinds for educator licenses under this section, division (D) of 26334
section 3301.07 of the Revised Code, or any other law shall be 26335
adopted, amended, or rescinded under Chapter 119. of the Revised 26336
Code except as follows: 26337

(1) Notwithstanding division (D) of section 119.03 and 26338
division (A)(1) of section 119.04 of the Revised Code, in the case 26339
of the adoption of any rule or the amendment or rescission of any 26340
rule that necessitates institutions' offering teacher preparation 26341
programs that are approved by the state board of education under 26342
section 3319.23 of the Revised Code to revise the curriculum of 26343
those programs, the effective date shall not be as prescribed in 26344
division (D) of section 119.03 and division (A)(1) of section 26345
119.04 of the Revised Code. Instead, the effective date of such 26346
rules, or the amendment or rescission of such rules, shall be the 26347
date prescribed by section 3319.23 of the Revised Code. 26348

(2) Notwithstanding the authority to adopt, amend, or rescind 26349
emergency rules in division (F) of section 119.03 of the Revised 26350
Code, this authority shall not apply to the state board of 26351
education with regard to rules for educator licenses. 26352

(C)(1) The rules adopted under this section establishing 26353

standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards adopted by the state board of education pursuant to section 3319.61 of the Revised Code into their review of coursework that is appropriate for license renewal. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (C)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator

license is designated.

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Each professional development committee shall consist of at least three classroom teachers employed by the district, one principal employed by the district, and one other employee of the district appointed by the district superintendent. For committees with a building-level scope, the teacher and principal members shall be assigned to that building, and the teacher members shall be elected by majority vote of the classroom teachers assigned to that building. For committees with a district-level scope, the teacher members shall be elected by majority vote of the classroom teachers of the district, and the principal member shall be elected by a majority vote of the principals of the district, unless there are two or fewer principals employed by the district, in which case the one or two principals employed shall serve on the committee. If a committee has a particular grade or age level scope, the teacher members shall be licensed to teach such grade or age levels, and shall be elected by majority vote of the classroom teachers holding such a license and the principal shall be elected by all principals serving in buildings where any such teachers serve. The district superintendent shall appoint a replacement to fill any vacancy that occurs on a professional development committee, except in the case of vacancies among the elected classroom teacher members, which shall be filled by vote of the remaining members of the committee so selected.

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Terms of office on professional development committees shall be prescribed by the district board establishing the committees. The conduct of elections for members of professional development committees shall be prescribed by the district board establishing the committees. A professional development committee may include additional members, except that the majority of members on each such committee shall be classroom teachers employed by the district. Any member appointed to fill a vacancy occurring prior

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to the expiration date of the term for which a predecessor was 26418
appointed shall hold office as a member for the remainder of that 26419
term. 26420

The initial meeting of any professional development 26421
committee, upon election and appointment of all committee members, 26422
shall be called by a member designated by the district 26423
superintendent. At this initial meeting, the committee shall 26424
select a chairperson and such other officers the committee deems 26425
necessary, and shall adopt rules for the conduct of its meetings. 26426
Thereafter, the committee shall meet at the call of the 26427
chairperson or upon the filing of a petition with the district 26428
superintendent signed by a majority of the committee members 26429
calling for the committee to meet. 26430

(3) In the case of a school district in which an exclusive 26431
representative has been established pursuant to Chapter 4117. of 26432
the Revised Code, professional development committees shall be 26433
established in accordance with any collective bargaining agreement 26434
in effect in the district that includes provisions for such 26435
committees. 26436

If the collective bargaining agreement does not specify a 26437
different method for the selection of teacher members of the 26438
committees, the exclusive representative of the district's 26439
teachers shall select the teacher members. 26440

If the collective bargaining agreement does not specify a 26441
different structure for the committees, the board of education of 26442
the school district shall establish the structure, including the 26443
number of committees and the number of teacher and administrative 26444
members on each committee; the specific administrative members to 26445
be part of each committee; whether the scope of the committees 26446
will be district levels, building levels, or by type of grade or 26447
age levels for which educator licenses are designated; the lengths 26448

of terms for members; the manner of filling vacancies on the
committees; and the frequency and time and place of meetings.
However, in all cases, except as provided in division (C)(4) of
this section, there shall be a majority of teacher members of any
professional development committee, there shall be at least five
total members of any professional development committee, and the
exclusive representative shall designate replacement members in
the case of vacancies among teacher members, unless the collective
bargaining agreement specifies a different method of selecting
such replacements.

(4) Whenever an administrator's coursework plan is being
discussed or voted upon, the local professional development
committee shall, at the request of one of its administrative
members, cause a majority of the committee to consist of
administrative members by reducing the number of teacher members
voting on the plan.

(D)(1) The department of education, educational service
centers, county boards of mental retardation and developmental
disabilities, regional professional development centers, special
education regional resource centers, college and university
departments of education, head start programs, the eTech Ohio
~~SchoolNet~~ commission, and the Ohio education computer network may
establish local professional development committees to determine
whether the coursework proposed by their employees who are
licensed or certificated under this section or section 3319.222 of
the Revised Code meet the requirements of the rules adopted under
this section. They may establish local professional development
committees on their own or in collaboration with a school district
or other agency having authority to establish them.

Local professional development committees established by
county boards of mental retardation and developmental disabilities
shall be structured in a manner comparable to the structures

prescribed for school districts in divisions (C)(2) and (3) of 26481
this section, as shall the committees established by any other 26482
entity specified in division (D)(1) of this section that provides 26483
educational services by employing or contracting for services of 26484
classroom teachers licensed or certificated under this section or 26485
section 3319.222 of the Revised Code. All other entities specified 26486
in division (D)(1) of this section shall structure their 26487
committees in accordance with guidelines which shall be issued by 26488
the state board. 26489

(2) Any public agency that is not specified in division 26490
(D)(1) of this section but provides educational services and 26491
employs or contracts for services of classroom teachers licensed 26492
or certificated under this section or section 3319.222 of the 26493
Revised Code may establish a local professional development 26494
committee, subject to the approval of the department of education. 26495
The committee shall be structured in accordance with guidelines 26496
issued by the state board. 26497

Sec. 3319.235. (A) The standards for the preparation of 26498
teachers adopted under section 3319.23 of the Revised Code shall 26499
require any institution that provides a course of study for the 26500
training of teachers to ensure that graduates of such course of 26501
study are skilled at integrating educational technology in the 26502
instruction of children, as evidenced by the graduate having 26503
either demonstrated proficiency in such skills in a manner 26504
prescribed by the department of education or completed a course 26505
that includes training in such skills. 26506

(B) The ~~eTech Ohio SchoolNet~~ commission, ~~established pursuant~~ 26507
~~to section 3301.80 of the Revised Code,~~ shall establish model 26508
professional development programs to assist teachers who completed 26509
their teacher preparation prior to the effective date of division 26510
(A) of this section to become skilled at integrating educational 26511

technology in the instruction of children. The commission shall 26512
provide technical assistance to school districts wishing to 26513
establish such programs. 26514

Sec. 3319.55. (A) A grant program is hereby established to 26515
recognize and reward teachers in public and chartered nonpublic 26516
schools who hold valid teaching certificates or licenses issued by 26517
the national board for professional teaching standards. The 26518
superintendent of public instruction shall administer this program 26519
in accordance with this section and rules which the state board of 26520
education shall adopt in accordance with Chapter 119. of the 26521
Revised Code. 26522

In each fiscal year that the general assembly appropriates 26523
funds for purposes of this section, the superintendent of public 26524
instruction shall award a grant to each person who, by the first 26525
day of April of that year and in accordance with the rules adopted 26526
under this section, submits to the superintendent evidence 26527
indicating all of the following: 26528

(1) The person holds a valid certificate or license issued by 26529
the national board for professional teaching standards; 26530

(2) The person has been employed full-time as a teacher by 26531
the board of education of a school district or by a chartered 26532
nonpublic school in this state during the current school year; 26533

(3) The date the person was accepted into the national board 26534
certification or licensure program. 26535

An individual may receive a grant under this section in each 26536
fiscal year the person is eligible for a grant and submits 26537
evidence of that eligibility in accordance with this section. No 26538
person may receive a grant after the expiration of the person's 26539
initial certification or license issued by the national board. 26540

(B) The amount of the grant awarded to each eligible person 26541

under division (A) of this section in any fiscal year shall equal 26542
the following: 26543

(1) Two thousand five hundred dollars for any teacher 26544
accepted as a candidate for certification or licensure by the 26545
national board on or before May 31, 2003, and issued a certificate 26546
or license by the national board on or before December 31, 2004; 26547

(2) One thousand dollars for any other teacher issued a 26548
certificate or license by the national board. 26549

However, if the funds appropriated for purposes of this 26550
section in any fiscal year are not sufficient to award the full 26551
grant amount to each person who is eligible in that fiscal year, 26552
the superintendent shall prorate the amount of the grant awarded 26553
in that fiscal year to each eligible person. 26554

Sec. 3323.021. As used in this section, "participating county 26555
MR/DD board" means a county board of mental retardation and 26556
developmental disabilities electing to participate in the 26557
provision of or contracting for educational services for children 26558
under division (D) of section 5126.05 of the Revised Code. 26559

(A) When a school district, educational service center, or 26560
participating county MR/DD board enters into an agreement or 26561
contract with another school district, educational service center, 26562
or participating county MR/DD board to provide educational 26563
services to a disabled child during a school year, both of the 26564
following shall apply: 26565

(1) Beginning with fiscal year 1999, if the provider of the 26566
services intends to increase the amount it charges for some or all 26567
of those services during the next school year or if the provider 26568
intends to cease offering all or part of those services during the 26569
next school year, the provider shall notify the entity for which 26570
the services are provided of these intended changes no later that 26571

the first day of March of the current fiscal year. 26572

(2) Beginning with fiscal year 1999, if the entity for which 26573
services are provided intends to cease obtaining those services 26574
from the provider for the next school year or intends to change 26575
the type or amount of services it obtains from the provider for 26576
the next school year, the entity shall notify the service provider 26577
of these intended changes no later than the first day of March of 26578
the current fiscal year. 26579

(B) School districts, educational service centers, 26580
participating county MR/DD boards, and other applicable 26581
governmental entities shall collaborate where possible to maximize 26582
federal sources of revenue, ~~including the community alternative~~ 26583
~~funding system of the medical assistance program established under~~ 26584
~~Chapter 5111. of the Revised Code,~~ to provide additional funds for 26585
special education related services for disabled children. 26586
Annually, each school district shall report to the department of 26587
education any amounts of money the district received through such 26588
medical assistance program. 26589

(C) The state board of education, the department of mental 26590
retardation and developmental disabilities, and the department of 26591
job and family services shall develop working agreements for 26592
pursuing additional funds for services for disabled children. 26593

Sec. 3323.091. (A) The department of mental health, the 26594
department of mental retardation and developmental disabilities, 26595
the department of youth services, and the department of 26596
rehabilitation and correction shall establish and maintain special 26597
education programs for handicapped children in institutions under 26598
their jurisdiction according to standards adopted by the state 26599
board of education. ~~The~~ 26600

(B) The superintendent of each state institution required to 26601

provide services under division (A) of this section, and each 26602
county MR/DD board, providing special education for handicapped 26603
preschool children under this chapter may apply to the state 26604
department of education for unit funding, which shall be paid in 26605
accordance with sections 3317.052 and 3317.053 of the Revised 26606
Code. 26607

~~(B) On~~ The superintendent of each state institution required 26608
to provide services under division (A) of this section may apply 26609
to the department of education for special education and related 26610
services weighted funding for handicapped children other than 26611
handicapped preschool children, calculated in accordance with 26612
section 3317.201 of the Revised Code. 26613

Each county MR/DD board providing special education for 26614
handicapped children other than handicapped preschool children may 26615
apply to the department of education for base cost and special 26616
education and related services weighted funding calculated in 26617
accordance with section 3317.20 of the Revised Code. 26618

(C) In addition to the authorization to apply for state 26619
funding described in division (B) of this section, each state 26620
institution required to provide services under division (A) of 26621
this section is entitled to tuition payments calculated in the 26622
manner described in division (C) of this section. 26623

On or before the thirtieth day of June of each year, the 26624
superintendent of each institution that during the school year 26625
provided special education pursuant to this section shall prepare 26626
a statement for each handicapped child under twenty-two years of 26627
age who has received special education. The statement shall 26628
contain the child's name and the name of the child's school 26629
district of residence. Within sixty days after receipt of such 26630
statement, the department of education shall perform one of the 26631
following: 26632

(1) For any child except a handicapped preschool child 26633
described in division ~~(B)~~(C)(2) of this section, pay to the 26634
institution submitting the statement an amount equal to the 26635
tuition calculated under division (A) of section 3317.08 of the 26636
Revised Code for the period covered by the statement, and deduct 26637
the same from the amount of state funds, if any, payable under 26638
sections 3317.022 and 3317.023 of the Revised Code, to the child's 26639
school district of residence or, if the amount of such state funds 26640
is insufficient, require the child's school district of residence 26641
to pay the institution submitting the statement an amount equal to 26642
the amount determined under this division. 26643

(2) For any handicapped preschool child not included in a 26644
unit approved under division (B) of section 3317.05 of the Revised 26645
Code, perform the following: 26646

(a) Pay to the institution submitting the statement an amount 26647
equal to the tuition calculated under division (B) of section 26648
3317.08 of the Revised Code for the period covered by the 26649
statement, except that in calculating the tuition under that 26650
section the operating expenses of the institution submitting the 26651
statement under this section shall be used instead of the 26652
operating expenses of the school district of residence; 26653

(b) Deduct from the amount of state funds, if any, payable 26654
under sections 3317.022 and 3317.023 of the Revised Code to the 26655
child's school district of residence an amount equal to the amount 26656
paid under division ~~(B)~~(C)(2)(a) of this section. 26657

Sec. 3323.14. This section does not apply to any handicapped 26658
preschool child except if included in a unit approved under 26659
division (B) of section 3317.05 of the Revised Code. 26660

(A) Where a child who is a school resident of one school 26661
district receives special education from another district and the 26662

per capita cost to the educating district for that child exceeds 26663
the sum of the amount received by the educating district for that 26664
child under division (A) of section 3317.08 of the Revised Code 26665
and the amount received by the district from the state board of 26666
education for that child, then the board of education of the 26667
district of residence shall pay ~~directly~~ to the board of the 26668
school district that is providing the special education such 26669
excess cost as is determined by using a formula approved by the 26670
department of education and agreed upon in contracts entered into 26671
by the boards of the district concerned at the time the district 26672
providing such special education accepts the child for enrollment. 26673
The department of education shall certify the amount of the 26674
payments under Chapter 3317. of the Revised Code for such 26675
handicapped pupils for each school year ending on the thirtieth 26676
day of July. 26677

(B) In the case of a child described in division (A) of this 26678
section who has been placed in a home, as defined in section 26679
3313.64 of the Revised Code, pursuant to the order of a court and 26680
who is not subject to section 3323.141 of the Revised Code, the 26681
district providing the child with special education and related 26682
services may charge to the child's district of residence the 26683
excess cost determined by formula approved by the department, 26684
regardless of whether the district of residence has entered into a 26685
contract with the district providing the services. If the district 26686
providing the services chooses to charge excess costs, the 26687
district may report the amount calculated under this division to 26688
the department. 26689

(C) If a district providing special education for a child 26690
reports an amount for the excess cost of those services, as 26691
authorized and calculated under division (A) or (B) of this 26692
section, the department shall pay that amount of excess cost to 26693
the district providing the services and shall deduct that amount 26694

from the child's district of residence in accordance with division 26695
(N) of section 3317.023 of the Revised Code. 26696

Sec. 3323.16. No unit for deaf children shall be disapproved 26697
for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the 26698
Revised Code on the basis of the methods of instruction used in 26699
educational programs in the school district or institution to 26700
teach deaf children to communicate, and no preference in approving 26701
units for funding shall be given for teaching deaf children by the 26702
oral, manual, total communication, or other method of instruction. 26703

Sec. ~~41.36~~ 3323.19. (A) ~~In the 2004-2005 and 2005-2006 school~~ 26704
~~years, within~~ Within three months after a student identified with 26705
disabilities begins receiving services for the first time under an 26706
individualized education program, ~~as defined in section 3323.01 of~~ 26707
~~the Revised Code,~~ the school district in which that student is 26708
enrolled shall require the student to undergo a comprehensive eye 26709
examination performed either by an optometrist licensed under 26710
Chapter 4725. of the Revised Code or by a physician authorized 26711
under Chapter 4731. of the Revised Code to practice medicine and 26712
surgery or osteopathic medicine and surgery who is comprehensively 26713
trained and educated in the treatment of the human eye, eye 26714
disease, or comprehensive vision services, unless the student 26715
underwent such an examination within the nine-month period 26716
immediately prior to being identified with disabilities. 26717

However, no student who has not undergone the eye examination 26718
required under this section shall be prohibited from initiating, 26719
receiving, or continuing to receive services prescribed in the 26720
student's individualized education program. 26721

(B) The superintendent of each school district or the 26722
superintendent's designee may determine fulfillment of the 26723
requirement prescribed in division (A) of this section based on 26724

any special circumstances of the student, the student's parent,
guardian, or family that may prevent the student from undergoing
the eye examination prior to beginning special education services.

(C) Except for a student who may be entitled to a
comprehensive eye examination in the identification of the
student's disabilities, in the development of the student's
individualized education program, or as a related service under
the student's individualized education program, neither the state
nor any school district shall be responsible for paying for the
eye examination required by this section.

Sec. 3323.20. On July 1, 2006, and on each first day of July
thereafter, the department of education shall electronically
report to the general assembly the number of handicapped preschool
children who received services for which the department made a
payment to any provider during the previous fiscal year,
disaggregated according to each category of handicap described in
divisions (A) to (F) of section 3317.013 of the Revised Code,
regardless of whether payment for services was based on the
multiples prescribed in those divisions.

Sec. 3323.30. The Ohio center for autism and low incidence is
hereby established within the department of education's office for
exceptional children, or any successor of that office. The center
shall administer programs and coordinate services for infants,
preschool and school-age children, and adults with autism and low
incidence disabilities. The center's principal focus shall be
programs and services for persons with autism. The center shall be
under the direction of an executive director, appointed by the
superintendent of public instruction in consultation with the
advisory board established under section 3323.31 of the Revised
Code. The department shall use state and federal funds

appropriated to the department for operation of the center. 26755

As used in this section and in sections 3323.31 to 3323.33 of 26756
the Revised Code, "autism and low incidence disabilities" includes 26757
any of the following: 26758

(A) Autism; 26759

(B) Deafness or hearing handicap; 26760

(C) Multihandicap; 26761

(D) Orthopedic handicap; 26762

(E) Other health handicap; 26763

(F) Traumatic brain injury; 26764

(G) Visual disability. 26765

Sec. 3323.31. The superintendent of public instruction shall 26766
establish an advisory board to assist and advise the department of 26767
education in the operation of the Ohio center for autism and low 26768
incidence. As determined by the superintendent, the advisory board 26769
shall consist of individuals who are stakeholders in the service 26770
to persons with autism and low incidence disabilities, including, 26771
but not limited to, the following: 26772

(A) Persons with autism and low incidence disabilities; 26773

(B) Parents and family members; 26774

(C) Educators and other professionals; 26775

(D) Higher education instructors; 26776

(E) Representatives of state agencies. 26777

The advisory board shall be organized as determined by the 26778
superintendent. 26779

Members of the advisory board shall receive no compensation 26780
for their services. 26781

Sec. 3323.32. The Ohio center for autism and low incidence shall do all of the following: 26782
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(A) Collaborate and consult with state agencies that serve persons with autism and low incidence disabilities; 26784
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(B) Collaborate and consult with institutions of higher education in development and implementation of courses for educators and other professionals serving persons with autism and low incidence disabilities; 26786
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(C) Collaborate with parent and professional organizations; 26790

(D) Create and implement programs for professional development, technical assistance, intervention services, and research in the treatment of persons with autism and low incidence disabilities; 26791
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(E) Create a regional network for communication and dissemination of information among educators and professionals serving persons with autism and low incidence disabilities. The regional network shall address educational services, evaluation, diagnosis, assistive technology, family support, leisure and recreational activities, transition, employment and adult services, and medical care for persons with autism and low incidence disabilities. 26795
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(F) Develop a statewide clearinghouse for information about autism spectrum disorders and low incidence disabilities, as described in section 3323.33 of the Revised Code. 26803
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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: 26806
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26809

(A) Maintain a collection of resources for public 26810

<u>distribution;</u>	26811
<u>(B) Monitor information on resources, trends, policies,</u>	26812
<u>services, and current educational interventions;</u>	26813
<u>(C) Respond to requests for information from parents and</u>	26814
<u>educators of children with autism and low incidence disabilities.</u>	26815
<u>Sec. 3324.10. (A) As used in this section, "grade</u>	26816
<u>acceleration" means the promotion of a student to a grade higher</u>	26817
<u>than the grade that would generally follow the one the student has</u>	26818
<u>completed.</u>	26819
<u>(B) Not later than March 31, 2006, the superintendent of</u>	26820
<u>public instruction shall review the grade acceleration policies of</u>	26821
<u>school districts throughout the state and adopt as the state's</u>	26822
<u>policy the policy from among that group that represents the best</u>	26823
<u>practices for a statewide grade acceleration policy, as determined</u>	26824
<u>by the superintendent. The superintendent shall provide each</u>	26825
<u>district with a copy of the policy upon its adoption. Any school</u>	26826
<u>district board of education that has not adopted a grade</u>	26827
<u>acceleration policy for use in its district shall comply with the</u>	26828
<u>statewide grade acceleration policy.</u>	26829
<u>(C) The statewide grade acceleration policy adopted pursuant</u>	26830
<u>to this section shall be effective beginning with the 2006-2007</u>	26831
<u>school year.</u>	26832
<u>Sec. 3325.10. The state school for the blind may receive and</u>	26833
<u>administer any federal funds relating to the education of blind or</u>	26834
<u>visually impaired students. The school for the blind also may</u>	26835
<u>accept and administer any gifts, donations, or bequests made to it</u>	26836
<u>for programs or services relating to the education of blind or</u>	26837
<u>visually impaired students.</u>	26838
<u>Sec. 3325.11. There is hereby created in the state treasury</u>	26839

the state school for the blind student activity and work-study 26840
fund. Moneys received from donations, bequests, the school 26841
vocational program, and any other moneys designated for deposit in 26842
the fund by the superintendent of the state school for the blind 26843
shall be credited to the fund. Notwithstanding section 3325.01 of 26844
the Revised Code, the approval of the state board of education is 26845
not required to designate money for deposit into the fund. The 26846
school for the blind shall use money in the fund for school 26847
operating expenses, including, but not limited to, personal 26848
services, maintenance, and equipment related to student support, 26849
activities, and vocational programs, and for providing 26850
scholarships to students for further training upon graduation. 26851

Sec. 3325.12. There is hereby created the state school for 26852
the blind student account fund, which shall be in the custody of 26853
the treasurer of state but shall not be part of the state 26854
treasury. The fund shall consist of all moneys received from the 26855
parents or guardians of students attending the state school for 26856
the blind that are designated for use by the respective students 26857
in activities of their choice. The treasurer of state may invest 26858
any portion of the fund not needed for immediate use in the same 26859
manner as, and subject to laws regarding the investment of, state 26860
funds. The treasurer of state shall disburse money from the fund 26861
on order of the superintendent of the state school for the blind 26862
or the superintendent's designee. All investment earnings of the 26863
fund shall be credited to the fund and allocated among the student 26864
accounts in proportion to the amount invested from each student's 26865
account. 26866

Sec. 3325.15. The state school for the deaf may receive and 26867
administer any federal funds relating to the education of deaf or 26868
hearing-impaired students. The school for the deaf also may accept 26869

and administer any gifts, donations, or bequests given to it for 26870
programs or services relating to the education of deaf or 26871
hearing-impaired students. 26872

Sec. 3325.16. There is hereby created in the state treasury 26873
the state school for the deaf educational program expenses fund. 26874
Moneys received by the school from donations, bequests, student 26875
fundraising activities, fees charged for camps and workshops, gate 26876
receipts from athletic contests, and the student work experience 26877
program operated by the school, and any other moneys designated 26878
for deposit in the fund by the superintendent of the school, shall 26879
be credited to the fund. Notwithstanding section 3325.01 of the 26880
Revised Code, the approval of the state board of education is not 26881
required to designate money for deposit into the fund. The state 26882
school for the deaf shall use moneys in the fund for educational 26883
programs, after-school activities, and expenses associated with 26884
student activities and clubs. 26885

Sec. 3325.17. There is hereby created the state school for 26886
the deaf student account fund, which shall be in the custody of 26887
the treasurer of state but shall not be part of the state 26888
treasury. The fund shall consist of all moneys received from the 26889
parents or guardians of students attending the state school for 26890
the deaf that are designated for use by the respective students in 26891
activities of their choice. The treasurer of state may invest any 26892
portion of the fund not needed for immediate use in the same 26893
manner as, and subject to laws regarding the investment of, state 26894
funds. The treasurer of state shall disburse money from the fund 26895
on order of the superintendent of the state school for the deaf or 26896
the superintendent's designee. All investment earnings of the fund 26897
shall be credited to the fund and allocated among the student 26898
accounts in proportion to the amount invested from each student's 26899

account. 26900

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 26901
and division (D) of section 3311.52 of the Revised Code, this 26902
section and sections 3327.011, 3327.012, and 3327.02 of the 26903
Revised Code do not apply to any joint vocational or cooperative 26904
education school district. 26905

In all city, local, and exempted village school districts 26906
where resident school pupils in grades kindergarten through eight 26907
live more than two miles from the school for which the state board 26908
of education prescribes minimum standards pursuant to division (D) 26909
of section 3301.07 of the Revised Code and to which they are 26910
assigned by the board of education of the district of residence or 26911
to and from the nonpublic or community school which they attend 26912
the board of education shall provide transportation for such 26913
pupils to and from such school except as provided in section 26914
3327.02 of the Revised Code. 26915

In all city, local, and exempted village school districts 26916
where pupil transportation is required under a career-technical 26917
plan approved by the state board of education under section 26918
3313.90 of the Revised Code, for any student attending a 26919
career-technical program operated by another school district, 26920
including a joint vocational school district, as prescribed under 26921
that section, the board of education of the student's district of 26922
residence shall provide transportation from the public high school 26923
operated by that district to which the student is assigned to the 26924
career-technical program. 26925

In all city, local, and exempted village school districts the 26926
board may provide transportation for resident school pupils in 26927
grades nine through twelve to and from the high school to which 26928
they are assigned by the board of education of the district of 26929

residence or to and from the nonpublic or community high school 26930
which they attend for which the state board of education 26931
prescribes minimum standards pursuant to division (D) of section 26932
3301.07 of the Revised Code. 26933

A board of education shall not be required to transport 26934
elementary or high school pupils to and from a nonpublic or 26935
community school where such transportation would require more than 26936
thirty minutes of direct travel time as measured by school bus 26937
from the public school building to which the pupils would be 26938
assigned if attending the public school designated by the district 26939
of residence. 26940

Where it is impractical to transport a pupil by school 26941
conveyance, a board of education may offer payment, in lieu of 26942
providing such transportation in accordance with section 3327.02 26943
of the Revised Code. 26944

In all city, local, and exempted village school districts the 26945
board shall provide transportation for all children who are so 26946
crippled that they are unable to walk to and from the school for 26947
which the state board of education prescribes minimum standards 26948
pursuant to division (D) of section 3301.07 of the Revised Code 26949
and which they attend. In case of dispute whether the child is 26950
able to walk to and from the school, the health commissioner shall 26951
be the judge of such ability. In all city, exempted village, and 26952
local school districts the board shall provide transportation to 26953
and from school or special education classes for educable mentally 26954
retarded children in accordance with standards adopted by the 26955
state board of education. 26956

When transportation of pupils is provided the conveyance 26957
shall be run on a time schedule that shall be adopted and put in 26958
force by the board not later than ten days after the beginning of 26959
the school term. 26960

The cost of any transportation service authorized by this 26961
section shall be paid first out of federal funds, if any, 26962
available for the purpose of pupil transportation, and secondly 26963
out of state appropriations, in accordance with regulations 26964
adopted by the state board of education. 26965

No transportation of any pupils shall be provided by any 26966
board of education to or from any school which in the selection of 26967
pupils, faculty members, or employees, practices discrimination 26968
against any person on the grounds of race, color, religion, or 26969
national origin. 26970

Sec. 3332.092. Any school subject to this chapter receiving 26971
money under section 3333.12 or 3333.122 of the Revised Code on 26972
behalf of a student who is determined by the state board of career 26973
colleges and schools to be ineligible under such section because 26974
the program in which the student is enrolled does not lead to an 26975
associate or baccalaureate degree, shall be liable to the state 26976
for the amount specified in section 3333.12 or 3333.122 of the 26977
Revised Code. The state board of career colleges and schools shall 26978
suspend the certificate of registration of a school receiving 26979
money under section 3333.12 or 3333.122 of the Revised Code for 26980
such ineligible student until such time as the money is repaid to 26981
the Ohio board of regents. 26982

Sec. 3333.04. The Ohio board of regents shall: 26983

(A) Make studies of state policy in the field of higher 26984
education and formulate a master plan for higher education for the 26985
state, considering the needs of the people, the needs of the 26986
state, and the role of individual public and private institutions 26987
within the state in fulfilling these needs; 26988

(B)(1) Report annually to the governor and the general 26989
assembly on the findings from its studies and the master plan for 26990

higher education for the state; 26991

(2) Report at least semiannually to the general assembly and 26992
the governor the enrollment numbers at each state-assisted 26993
institution of higher education. 26994

(C) Approve or disapprove the establishment of new branches 26995
or academic centers of state colleges and universities; 26996

(D) Approve or disapprove the establishment of state 26997
technical colleges or any other state institution of higher 26998
education; 26999

(E) Recommend the nature of the programs, undergraduate, 27000
graduate, professional, state-financed research, and public 27001
services which should be offered by the state colleges, 27002
universities, and other state-assisted institutions of higher 27003
education in order to utilize to the best advantage their 27004
facilities and personnel; 27005

(F) Recommend to the state colleges, universities, and other 27006
state-assisted institutions of higher education graduate or 27007
professional programs, including, but not limited to, doctor of 27008
philosophy, doctor of education, and juris doctor programs, that 27009
could be eliminated because they constitute unnecessary 27010
duplication, as shall be determined using the process developed 27011
pursuant to this section, or for other good and sufficient cause. 27012
For purposes of determining the amounts of any state instructional 27013
subsidies paid to these colleges, universities, and institutions, 27014
the board may exclude students enrolled in any program that the 27015
board has recommended for elimination pursuant to this division 27016
except that the board shall not exclude any such student who 27017
enrolled in the program prior to the date on which the board 27018
initially commences to exclude students under this division. The 27019
board of regents and these colleges, universities, and 27020
institutions shall jointly develop a process for determining which 27021

existing graduate or professional programs constitute unnecessary
duplication. 27022
27023

(G) Recommend to the state colleges, universities, and other
state-assisted institutions of higher education programs which 27024
should be added to their present programs; 27025
27026

(H) Conduct studies for the state colleges, universities, and 27027
other state-assisted institutions of higher education to assist 27028
them in making the best and most efficient use of their existing 27029
facilities and personnel; 27030

(I) Make recommendations to the governor and general assembly 27031
concerning the development of state-financed capital plans for 27032
higher education; the establishment of new state colleges, 27033
universities, and other state-assisted institutions of higher 27034
education; and the establishment of new programs at the existing 27035
state colleges, universities, and other institutions of higher 27036
education; 27037

(J) Review the appropriation requests of the public community 27038
colleges and the state colleges and universities and submit to the 27039
office of budget and management and to the chairpersons of the 27040
finance committees of the house of representatives and of the 27041
senate its recommendations in regard to the biennial higher 27042
education appropriation for the state, including appropriations 27043
for the individual state colleges and universities and public 27044
community colleges. For the purpose of determining the amounts of 27045
instructional subsidies to be paid to state-assisted colleges and 27046
universities, the board shall define "full-time equivalent 27047
student" by program per academic year. The definition may take 27048
into account the establishment of minimum enrollment levels in 27049
technical education programs below which support allowances will 27050
not be paid. Except as otherwise provided in this section, the 27051
board shall make no change in the definition of "full-time 27052

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;

(N) Approve or disapprove all new degrees and new degree
programs at all state colleges, universities, and other
state-assisted institutions of higher education;

(O) Adopt such rules as are necessary to carry out its duties
and responsibilities;

(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	27084
board that is designed to accomplish any of the following:	27085
(1) Increased access to higher education;	27086
(2) Job training;	27087
(3) Adult literacy;	27088
(4) Research;	27089
(5) Excellence in higher education;	27090
(6) Reduction in the number of graduate programs within the	27091
same subject area.	27092
In July of each odd-numbered year, the board of regents shall	27093
submit to the governor and the general assembly a report on	27094
progress made toward these goals.	27095
(Q) Make recommendations to the governor and the general	27096
assembly regarding the design and funding of the student financial	27097
aid programs specified in sections 3333.12, <u>3333.122</u> , 3333.21 to	27098
3333.27, and 5910.02 of the Revised Code;	27099
(R) Participate in education-related state or federal	27100
programs on behalf of the state and assume responsibility for the	27101
administration of such programs in accordance with applicable	27102
state or federal law;	27103
(S) Adopt rules for student financial aid programs as	27104
required by sections 3333.12, <u>3333.122</u> , 3333.21 to 3333.27,	27105
3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any	27106
other administrative functions assigned to the board by those	27107
sections;	27108
(T) Administer contracts under sections 3702.74 and 3702.75	27109
of the Revised Code in accordance with rules adopted by the	27110
director of health under section 3702.79 of the Revised Code;	27111
(U) Conduct enrollment audits of state-supported institutions	27112

of higher education; 27113

(V) Appoint consortiums of college and university personnel 27114
to participate in the development and operation of statewide 27115
collaborative efforts, including the Ohio supercomputer center, 27116
the Ohio academic resources network, OhioLink, and the Ohio 27117
learning network. For each consortium, the board shall designate a 27118
college or university to serve as that consortium's fiscal agent, 27119
financial officer, and employer. Any funds appropriated to the 27120
board for consortiums shall be distributed to the fiscal agents 27121
for the operation of the consortiums. A consortium shall follow 27122
the rules of the college or university that serves as its fiscal 27123
agent. 27124

Sec. 3333.044. (A) The Ohio board of regents may contract 27125
with any consultants that are necessary for the discharge of the 27126
board's duties under this chapter. 27127

(B) The Ohio board of regents may purchase, upon the terms 27128
that the board determines to be advisable, one or more policies of 27129
insurance from insurers authorized to do business in this state 27130
that insure consultants who have contracted with the board under 27131
division (A) of this section or members of an advisory committee 27132
appointed under section 3333.04 of the Revised Code, with respect 27133
to the activities of the consultants or advisory committee members 27134
in the course of the performance of their responsibilities as 27135
consultants or advisory committee members. 27136

(C) Subject to the approval of the controlling board, the 27137
Ohio board of regents may contract with any entities for the 27138
discharge of the board's duties and responsibilities under any of 27139
the programs established pursuant to sections 3333.12, 3333.122, 27140
3333.21 to 3333.28, 3702.71 to 3702.81, and 5120.55, and Chapter 27141
5910. of the Revised Code. The board shall not enter into a 27142
contract under this division unless the proposed contractor 27143

demonstrates that its primary purpose is to promote access to 27144
higher education by providing student financial assistance through 27145
loans, grants, or scholarships, and by providing high quality 27146
support services and information to students and their families 27147
with regard to such financial assistance. 27148

Chapter 125. of the Revised Code does not apply to contracts 27149
entered into pursuant to this section. In awarding contracts under 27150
this division, the board shall consider factors such as the cost 27151
of the administration of the contract, the experience of the 27152
contractor, and the contractor's ability to properly execute the 27153
contract. 27154

Sec. 3333.047. With regard to any state student financial aid 27155
program established in this chapter, Chapter 5910., or section 27156
5919.34 of the Revised Code, the Ohio board of regents shall 27157
conduct audits to: 27158

(A) Determine the validity of information provided by 27159
students and parents regarding eligibility for state student 27160
financial aid. If the board determines that eligibility data has 27161
been reported incorrectly or inaccurately, and where the board 27162
determines an adjustment to be appropriate, the institution of 27163
higher education shall adjust the financial aid awarded to the 27164
student. 27165

(B) Ensure that institutions of higher education are in 27166
compliance with the board's rules governing state student 27167
financial aid programs. An institution that fails to comply with 27168
the board's rules in the administration of any state student 27169
financial aid program shall be fully liable to reimburse the board 27170
for the unauthorized use of student financial aid funds. 27171

Sec. 3333.12. (A) As used in this section: 27172

(1) "Eligible student" means an undergraduate student who is: 27173

(a) An Ohio resident <u>enrolled in an undergraduate program</u>	27174
<u>before the 2006-2007 academic year;</u>	27175
(b) Enrolled in either of the following:	27176
(i) An accredited institution of higher education in this	27177
state that meets the requirements of Title VI of the Civil Rights	27178
Act of 1964 and is state-assisted, is nonprofit and has a	27179
certificate of authorization from the Ohio board of regents	27180
pursuant to Chapter 1713. of the Revised Code, has a certificate	27181
of registration from the state board of career colleges and	27182
schools and program authorization to award an associate or	27183
bachelor's degree, or is a private institution exempt from	27184
regulation under Chapter 3332. of the Revised Code as prescribed	27185
in section 3333.046 of the Revised Code. Students who attend an	27186
institution that holds a certificate of registration shall be	27187
enrolled in a program leading to an associate or bachelor's degree	27188
for which associate or bachelor's degree program the institution	27189
has program authorization issued under section 3332.05 of the	27190
Revised Code.	27191
(ii) A technical education program of at least two years	27192
duration sponsored by a private institution of higher education in	27193
this state that meets the requirements of Title VI of the Civil	27194
Rights Act of 1964.	27195
(c) Enrolled as a full-time student or enrolled as a less	27196
than full-time student for the term expected to be the student's	27197
final term of enrollment and is enrolled for the number of credit	27198
hours necessary to complete the requirements of the program in	27199
which the student is enrolled.	27200
(2) "Gross income" includes all taxable and nontaxable income	27201
of the parents, the student, and the student's spouse, except	27202
income derived from an Ohio academic scholarship, income earned by	27203
the student between the last day of the spring term and the first	27204

day of the fall term, and other income exclusions designated by 27205
the board. Gross income may be verified to the board by the 27206
institution in which the student is enrolled using the federal 27207
financial aid eligibility verification process or by other means 27208
satisfactory to the board. 27209

(3) "Resident," "full-time student," "dependent," 27210
"financially independent," and "accredited" shall be defined by 27211
rules adopted by the board. 27212

(B) The Ohio board of regents shall establish and administer 27213
an instructional grant program and may adopt rules to carry out 27214
this section. The general assembly shall support the instructional 27215
grant program by such sums and in such manner as it may provide, 27216
but the board may also receive funds from other sources to support 27217
the program. If the amounts available for support of the program 27218
are inadequate to provide grants to all eligible students, 27219
preference in the payment of grants shall be given in terms of 27220
income, beginning with the lowest income category of gross income 27221
and proceeding upward by category to the highest gross income 27222
category. 27223

An instructional grant shall be paid to an eligible student 27224
through the institution in which the student is enrolled, except 27225
that no instructional grant shall be paid to any person serving a 27226
term of imprisonment. Applications for such grants shall be made 27227
as prescribed by the board, and such applications may be made in 27228
conjunction with and upon the basis of information provided in 27229
conjunction with student assistance programs funded by agencies of 27230
the United States government or from financial resources of the 27231
institution of higher education. The institution shall certify 27232
that the student applicant meets the requirements set forth in 27233
divisions (A)(1)(b) and (c) of this section. Instructional grants 27234
shall be provided to an eligible student only as long as the 27235
student is making appropriate progress toward a nursing diploma or 27236

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.

An instructional grant shall not exceed the total instructional and general charges of the institution.

(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.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution							27259
Table of Grants							27260
Maximum Grant \$5,466							27261
Gross Income	Number of Dependents						27262
	1	2	3	4	5 or more		27263
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466		27264
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466		27265
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466		27266
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466		27267

\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	27268
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	27269
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	27270
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	27271
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	27272
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	27273
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	27274
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	27275
\$34,001 - \$35,000	444	888	984	1,080	1,344	27276
\$35,001 - \$36,000	--	444	888	984	1,080	27277
\$36,001 - \$37,000	--	--	444	888	984	27278
\$37,001 - \$38,000	--	--	--	444	888	27279
\$38,001 - \$39,000	--	--	--	--	444	27280

For a full-time student who is financially independent and 27281
enrolled in a nonprofit educational institution that is not a 27282
state-assisted institution and that has a certificate of 27283
authorization issued pursuant to Chapter 1713. of the Revised 27284
Code, the amount of the instructional grant for two semesters, 27285
three quarters, or a comparable portion of the academic year shall 27286
be determined in accordance with the following table: 27287

Private Institution 27288

Table of Grants 27289

Maximum Grant \$5,466 27290

Gross Income Number of Dependents 27291

	Number of Dependents						27292
	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	27293
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	27294
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466	27295
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466	27296
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466	27297
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466	27298
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196	27299

\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914	27300
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650	27301
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380	27302
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104	27303
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822	27304
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546	27305
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408	27306
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000	27307
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676	27308
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358	27309
\$30,301 - \$35,300	--	492	540	672	816	1,314	27310

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							27319
Table of Grants							27320
Maximum Grant \$4,632							27321
Gross Income	Number of Dependents					27322	
	1	2	3	4	5 or more	27323	
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	27324	
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	27325	
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	27326	
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	27327	
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	27328	
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	27329	
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	27330	
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	27331	

\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	27332
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	27333
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	27334
\$33,001 - \$34,000	750	852	906	1,134	1,416	27335
\$34,001 - \$35,000	372	750	852	906	1,134	27336
\$35,001 - \$36,000	--	372	750	852	906	27337
\$36,001 - \$37,000	--	--	372	750	852	27338
\$37,001 - \$38,000	--	--	--	372	750	27339
\$38,001 - \$39,000	--	--	--	--	372	27340

For a full-time student who is financially independent and 27341
enrolled in an educational institution that holds a certificate of 27342
registration from the state board of career colleges and schools 27343
or a private institution exempt from regulation under Chapter 27344
3332. of the Revised Code as prescribed in section 3333.046 of the 27345
Revised Code, the amount of the instructional grant for two 27346
semesters, three quarters, or a comparable portion of the academic 27347
year shall be determined in accordance with the following table: 27348

Career Institution 27349

Table of Grants 27350

Maximum Grant \$4,632 27351

Gross Income Number of Dependents 27352

	Number of Dependents						27353
	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	27354
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	27355
\$5,301 - \$5,800	3,684	4,410	4,632	4,632	4,632	4,632	27356
\$5,801 - \$6,300	3,222	4,158	4,410	4,632	4,632	4,632	27357
\$6,301 - \$6,800	2,790	3,930	4,158	4,410	4,632	4,632	27358
\$6,801 - \$7,300	2,292	3,714	3,930	4,158	4,410	4,632	27359
\$7,301 - \$8,300	1,854	3,462	3,714	3,930	4,158	4,410	27360
\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158	27361
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930	27362
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714	27363

\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462	27364
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246	27365
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024	27366
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886	27367
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544	27368
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268	27369
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986	27370
\$30,301 - \$35,300	--	426	456	570	708	1,116	27371

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							27377
Table of Grants							27378
Maximum Grant \$2,190							27379
Gross Income	Number of Dependents					27380	
	1	2	3	4	5 or more	27381	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	27382	
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	27383	
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	27384	
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	27385	
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	27386	
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	27387	
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	27388	
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	27389	
\$28,001 - \$31,000	522	648	864	1,080	1,320	27390	
\$31,001 - \$32,000	420	522	648	864	1,080	27391	
\$32,001 - \$33,000	384	420	522	648	864	27392	
\$33,001 - \$34,000	354	384	420	522	648	27393	
\$34,001 - \$35,000	174	354	384	420	522	27394	
\$35,001 - \$36,000	--	174	354	384	420	27395	

\$36,001 - \$37,000	--	--	174	354	384	27396
\$37,001 - \$38,000	--	--	--	174	354	27397
\$38,001 - \$39,000	--	--	--	--	174	27398

For a full-time student who is financially independent and
enrolled in a state-assisted educational institution, the amount
of the instructional grant for two semesters, three quarters, or a
comparable portion of the academic year shall be determined in
accordance with the following table:

Public Institution							27404
Table of Grants							27405
Maximum Grant \$2,190							27406
Gross Income	Number of Dependents						27407
	0	1	2	3	4	5 or more	27408
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	27409
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	27410
\$5,301 - \$5,800	1,740	2,082	2,190	2,190	2,190	2,190	27411
\$5,801 - \$6,300	1,542	1,968	2,082	2,190	2,190	2,190	27412
\$6,301 - \$6,800	1,320	1,866	1,968	2,082	2,190	2,190	27413
\$6,801 - \$7,300	1,080	1,758	1,866	1,968	2,082	2,190	27414
\$7,301 - \$8,300	864	1,638	1,758	1,866	1,968	2,082	27415
\$8,301 - \$9,300	648	1,530	1,638	1,758	1,866	1,968	27416
\$9,301 - \$10,300	522	1,422	1,530	1,638	1,758	1,866	27417
\$10,301 - \$11,800	420	1,356	1,422	1,530	1,638	1,758	27418
\$11,801 - \$13,300	384	1,308	1,356	1,422	1,530	1,638	27419
\$13,301 - \$14,800	354	1,290	1,308	1,356	1,422	1,530	27420
\$14,801 - \$16,300	174	1,164	1,290	1,308	1,356	1,422	27421
\$16,301 - \$19,300	--	858	1,050	1,182	1,308	1,356	27422
\$19,301 - \$22,300	--	540	750	948	1,062	1,200	27423
\$22,301 - \$25,300	--	432	540	750	948	1,062	27424
\$25,301 - \$30,300	--	324	432	540	750	948	27425
\$30,301 - \$35,300	--	192	210	264	324	522	27426

(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:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The

board shall adopt rules requiring institutions to provide 27458
information regarding an appeal to the board. 27459

(b) Any student who has previously received a grant under 27460
this section who meets all other requirements of this section. 27461

(3) The board shall adopt rules for the notification of all 27462
institutions whose students will be ineligible to participate in 27463
the grant program pursuant to division (F)(1) of this section. 27464

(4) A student's attendance at an institution whose students 27465
lose eligibility for grants under division (F)(1) of this section 27466
shall not affect that student's eligibility to receive a grant 27467
when enrolled in another institution. 27468

(G) Institutions of higher education that enroll students 27469
receiving instructional grants under this section shall report to 27470
the board all students who have received instructional grants but 27471
are no longer eligible for all or part of such grants and shall 27472
refund any moneys due the state within thirty days after the 27473
beginning of the quarter or term immediately following the quarter 27474
or term in which the student was no longer eligible to receive all 27475
or part of the student's grant. There shall be an interest charge 27476
of one per cent per month on all moneys due and payable after such 27477
thirty-day period. The board shall immediately notify the office 27478
of budget and management and the legislative service commission of 27479
all refunds so received. 27480

Sec. 3333.121. There is hereby established in the state 27481
treasury the ~~instructional grant~~ state need-based financial aid 27482
reconciliation fund, which shall consist of refunds of 27483
instructional grant payments made pursuant to section 3333.12 of 27484
the Revised Code and refunds of state need-based financial aid 27485
payments made pursuant to section 3333.122 of the Revised Code. 27486
Revenues credited to the fund shall be used by the Ohio board of 27487

regents to pay to higher education institutions any outstanding 27488
obligations from the prior year owed for the Ohio instructional 27489
grant program and the Ohio college opportunity grant program that 27490
are identified through the annual reconciliation and financial 27491
audit. Any amount in the fund that is in excess of the amount 27492
certified to the director of budget and management by the board of 27493
regents as necessary to reconcile prior year payments under the 27494
program shall be transferred to the general revenue fund. 27495

Sec. 3333.122. (A) As used in this section: 27496

(1) "Eligible student" means a student who is: 27497

(a) An Ohio resident who first enrolls in an undergraduate 27498
program in the 2006-2007 academic year or thereafter; 27499

(b) Enrolled in either of the following: 27500

(i) An accredited institution of higher education in this 27501
state that meets the requirements of Title VI of the Civil Rights 27502
Act of 1964 and is state-assisted, is nonprofit and has a 27503
certificate of authorization from the Ohio board of regents 27504
pursuant to Chapter 1713. of the Revised Code, has a certificate 27505
of registration from the state board of career colleges and 27506
schools and program authorization to award an associate or 27507
bachelor's degree, or is a private institution exempt from 27508
regulation under Chapter 3332. of the Revised Code as prescribed 27509
in section 3333.046 of the Revised Code. Students who attend an 27510
institution that holds a certificate of registration shall be 27511
enrolled in a program leading to an associate or bachelor's degree 27512
for which associate or bachelor's degree program the institution 27513
has program authorization issued under section 3332.05 of the 27514
Revised Code. 27515

(ii) A technical education program of at least two years 27516
duration sponsored by a private institution of higher education in 27517

this state that meets the requirements of Title VI of the Civil Rights Act of 1964. 27518
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(2) A student who participated in either the early college high school program administered by the department of education or in the post-secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded from eligibility for a need based grant under this section. 27520
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(3) "Resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time student," "one-quarter-time student," and "accredited" shall be defined by rules adopted by the board. 27526
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(B) The Ohio board of regents shall establish and administer a needs-based financial aid program based on the United States department of education's method of determining financial need and may adopt rules to carry out this section. The program shall be known as the Ohio college opportunity grant program. The general assembly shall support the needs-based financial aid 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 expected family contribution, beginning with the lowest expected family contribution category and proceeding upward by category to the highest expected family contribution category. 27530
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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 27544
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applications may be made in conjunction with and upon the basis of 27549
information provided in conjunction with student assistance 27550
programs funded by agencies of the United States government or 27551
from financial resources of the institution of higher education. 27552
The institution shall certify that the student applicant meets the 27553
requirements set forth in divisions (A)(1)(a) and (b) of this 27554
section. Needs-based financial aid grants shall be provided to an 27555
eligible student only as long as the student is making appropriate 27556
progress toward a nursing diploma or an associate or bachelor's 27557
degree. No student shall be eligible to receive a grant for more 27558
than ten semesters, fifteen quarters, or the equivalent of five 27559
academic years. A grant made to an eligible student on the basis 27560
of less than full-time enrollment shall be based on the number of 27561
credit hours for which the student is enrolled and shall be 27562
computed in accordance with a formula adopted by the board. No 27563
student shall receive more than one grant on the basis of less 27564
than full-time enrollment. 27565

A needs-based financial aid grant shall not exceed the total 27566
instructional and general charges of the institution. 27567

(C) The tables in this division prescribe the maximum grant 27568
amounts covering two semesters, three quarters, or a comparable 27569
portion of one academic year. Grant amounts for additional terms 27570
in the same academic year shall be determined under division (D) 27571
of this section. 27572

As used in the tables in division (C) of this section: 27573

(1) "Private institution" means an institution that is 27574
nonprofit and has a certificate of authorization from the Ohio 27575
board of regents pursuant to Chapter 1713. of the Revised Code. 27576

(2) "Career college" means either an institution that holds a 27577
certificate of registration from the state board of career 27578
colleges and schools or a private institution exempt from 27579

regulation under Chapter 3332. of the Revised Code as prescribed 27580
in section 3333.046 of the Revised Code. 27581

Full-time students shall be eligible to receive awards 27582
according to the following table: 27583

Full-Time Enrollment 27584

<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>	27586
<u>2,001</u>	<u>2,100</u>	<u>402</u>	<u>798</u>	<u>642</u>	27587
<u>1,901</u>	<u>2,000</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	27588
<u>1,801</u>	<u>1,900</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27589
<u>1,701</u>	<u>1,800</u>	<u>702</u>	<u>1,398</u>	<u>1,122</u>	27590
<u>1,601</u>	<u>1,700</u>	<u>798</u>	<u>1,602</u>	<u>1,278</u>	27591
<u>1,501</u>	<u>1,600</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27592
<u>1,401</u>	<u>1,500</u>	<u>1,002</u>	<u>1,998</u>	<u>1,602</u>	27593
<u>1,301</u>	<u>1,400</u>	<u>1,098</u>	<u>2,202</u>	<u>1,758</u>	27594
<u>1,201</u>	<u>1,300</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27595
<u>1,101</u>	<u>1,200</u>	<u>1,302</u>	<u>2,598</u>	<u>2,082</u>	27596
<u>1,001</u>	<u>1,100</u>	<u>1,398</u>	<u>2,802</u>	<u>2,238</u>	27597
<u>901</u>	<u>1,000</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	27598
<u>801</u>	<u>900</u>	<u>1,602</u>	<u>3,198</u>	<u>2,562</u>	27599
<u>701</u>	<u>800</u>	<u>1,698</u>	<u>3,402</u>	<u>2,718</u>	27600
<u>601</u>	<u>700</u>	<u>1,800</u>	<u>3,600</u>	<u>2,280</u>	27601
<u>501</u>	<u>600</u>	<u>1,902</u>	<u>3,798</u>	<u>3,042</u>	27602
<u>401</u>	<u>500</u>	<u>1,998</u>	<u>4,002</u>	<u>3,198</u>	27603
<u>301</u>	<u>400</u>	<u>2,100</u>	<u>4,200</u>	<u>3,360</u>	27604

<u>201</u>	<u>300</u>	<u>2,202</u>	<u>4,398</u>	<u>3,522</u>	27605
<u>101</u>	<u>200</u>	<u>2,298</u>	<u>4,602</u>	<u>3,678</u>	27606
<u>1</u>	<u>100</u>	<u>2,400</u>	<u>4,800</u>	<u>3,840</u>	27607
<u>0</u>	<u>0</u>	<u>2,496</u>	<u>4,992</u>	<u>3,996</u>	27608

Three-quarters-time students shall be eligible to receive 27609
awards according to the following table: 27610

Three-Quarters-Time Enrollment 27611

<u>If the EFC</u>	<u>And 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>	27612
<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>\$228</u>	<u>\$450</u>	<u>\$360</u>	27613
<u>2,001</u>	<u>2,100</u>	<u>300</u>	<u>600</u>	<u>480</u>	27614
<u>1,901</u>	<u>2,000</u>	<u>372</u>	<u>750</u>	<u>600</u>	27615
<u>1,801</u>	<u>1,900</u>	<u>450</u>	<u>900</u>	<u>720</u>	27616
<u>1,701</u>	<u>1,800</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	27617
<u>1,601</u>	<u>1,700</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27618
<u>1,501</u>	<u>1,600</u>	<u>678</u>	<u>1,350</u>	<u>1,080</u>	27619
<u>1,401</u>	<u>1,500</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	27620
<u>1,301</u>	<u>1,400</u>	<u>822</u>	<u>1,650</u>	<u>1,320</u>	27621
<u>1,201</u>	<u>1,300</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27622
<u>1,101</u>	<u>1,200</u>	<u>978</u>	<u>1,950</u>	<u>1,560</u>	27623
<u>1,001</u>	<u>1,100</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	27624
<u>901</u>	<u>1,000</u>	<u>1,128</u>	<u>2,250</u>	<u>1,800</u>	27625
<u>801</u>	<u>900</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27626
<u>701</u>	<u>800</u>	<u>1,272</u>	<u>2,550</u>	<u>2,040</u>	27627
<u>601</u>	<u>700</u>	<u>1,350</u>	<u>2,700</u>	<u>2,160</u>	27628
<u>501</u>	<u>600</u>	<u>1,428</u>	<u>2,850</u>	<u>2,280</u>	27629
<u>401</u>	<u>500</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	27630

<u>301</u>	<u>400</u>	<u>1,578</u>	<u>3,150</u>	<u>2,520</u>	27631
<u>201</u>	<u>300</u>	<u>1,650</u>	<u>3,300</u>	<u>2,640</u>	27632
<u>101</u>	<u>200</u>	<u>1,722</u>	<u>3,450</u>	<u>2,760</u>	27633
<u>1</u>	<u>100</u>	<u>1,800</u>	<u>3,600</u>	<u>2,880</u>	27634
<u>0</u>	<u>0</u>	<u>1,872</u>	<u>3,744</u>	<u>3,000</u>	27635

Half-time students shall be eligible to receive awards 27636

according to the following table: 27637

Half-Time Enrollment 27638

If the EFC And if the If the If the If the 27639

is equal EFC is no student student student

to or more than: attends a attends a attends a

greater public private career

than: institution, institution, college,

the annual the annual the annual

award award award

shall be: shall be: shall be:

<u>\$2,101</u>	<u>\$2,190</u>	<u>\$150</u>	<u>\$300</u>	<u>\$240</u>	27640
<u>2,001</u>	<u>2,100</u>	<u>204</u>	<u>402</u>	<u>324</u>	27641
<u>1,901</u>	<u>2,000</u>	<u>252</u>	<u>504</u>	<u>402</u>	27642
<u>1,801</u>	<u>1,900</u>	<u>300</u>	<u>600</u>	<u>480</u>	27643
<u>1,701</u>	<u>1,800</u>	<u>354</u>	<u>702</u>	<u>564</u>	27644
<u>1,601</u>	<u>1,700</u>	<u>402</u>	<u>804</u>	<u>642</u>	27645
<u>1,501</u>	<u>1,600</u>	<u>450</u>	<u>900</u>	<u>720</u>	27646
<u>1,401</u>	<u>1,500</u>	<u>504</u>	<u>1,002</u>	<u>804</u>	27647
<u>1,301</u>	<u>1,400</u>	<u>552</u>	<u>1,104</u>	<u>882</u>	27648
<u>1,201</u>	<u>1,300</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27649
<u>1,101</u>	<u>1,200</u>	<u>654</u>	<u>1,302</u>	<u>1,044</u>	27650
<u>1,001</u>	<u>1,100</u>	<u>702</u>	<u>1,404</u>	<u>1,122</u>	27651
<u>901</u>	<u>1,000</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	27652
<u>801</u>	<u>900</u>	<u>804</u>	<u>1,602</u>	<u>1,284</u>	27653
<u>701</u>	<u>800</u>	<u>852</u>	<u>1,704</u>	<u>1,362</u>	27654
<u>601</u>	<u>700</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27655
<u>501</u>	<u>600</u>	<u>954</u>	<u>1,902</u>	<u>1,524</u>	27656

<u>401</u>	<u>500</u>	<u>1,002</u>	<u>2,004</u>	<u>1,602</u>	27657
<u>301</u>	<u>400</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	27658
<u>201</u>	<u>300</u>	<u>1,104</u>	<u>2,202</u>	<u>1,764</u>	27659
<u>101</u>	<u>200</u>	<u>1,152</u>	<u>2,304</u>	<u>1,842</u>	27660
<u>1</u>	<u>100</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27661
<u>0</u>	<u>0</u>	<u>1,248</u>	<u>2,496</u>	<u>1,998</u>	27662

One-quarter-time students shall be eligible to receive awards 27663
according to the following table: 27664

One-Quarter-Time Enrollment 27665

<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>	27667
<u>2,001</u>	<u>2,100</u>	<u>102</u>	<u>198</u>	<u>162</u>	27668
<u>1,901</u>	<u>2,000</u>	<u>126</u>	<u>252</u>	<u>198</u>	27669
<u>1,801</u>	<u>1,900</u>	<u>150</u>	<u>300</u>	<u>240</u>	27670
<u>1,701</u>	<u>1,800</u>	<u>174</u>	<u>348</u>	<u>282</u>	27671
<u>1,601</u>	<u>1,700</u>	<u>198</u>	<u>402</u>	<u>318</u>	27672
<u>1,501</u>	<u>1,600</u>	<u>228</u>	<u>450</u>	<u>360</u>	27673
<u>1,401</u>	<u>1,500</u>	<u>252</u>	<u>498</u>	<u>402</u>	27674
<u>1,301</u>	<u>1,400</u>	<u>276</u>	<u>552</u>	<u>438</u>	27675
<u>1,201</u>	<u>1,300</u>	<u>300</u>	<u>600</u>	<u>480</u>	27676
<u>1,101</u>	<u>1,200</u>	<u>324</u>	<u>648</u>	<u>522</u>	27677
<u>1,001</u>	<u>1,100</u>	<u>348</u>	<u>702</u>	<u>558</u>	27678
<u>901</u>	<u>1,000</u>	<u>378</u>	<u>750</u>	<u>600</u>	27679
<u>801</u>	<u>900</u>	<u>402</u>	<u>798</u>	<u>642</u>	27680
<u>701</u>	<u>800</u>	<u>426</u>	<u>852</u>	<u>678</u>	27681
<u>601</u>	<u>700</u>	<u>450</u>	<u>900</u>	<u>720</u>	27682

<u>501</u>	<u>600</u>	<u>474</u>	<u>948</u>	<u>762</u>	27683
<u>401</u>	<u>500</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	27684
<u>301</u>	<u>400</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	27685
<u>201</u>	<u>300</u>	<u>552</u>	<u>1,098</u>	<u>882</u>	27686
<u>101</u>	<u>200</u>	<u>576</u>	<u>1,152</u>	<u>918</u>	27687
<u>1</u>	<u>100</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27688
<u>0</u>	<u>0</u>	<u>624</u>	<u>1,248</u>	<u>1,002</u>	27689

(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. 27690
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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. 27699
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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 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. 27704
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(2) Division (F)(1) of this section does not apply to the following: 27712
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(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board. 27714
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(b) Any student who has previously received a grant under this section who meets all other requirements of this section. 27723
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(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section. 27725
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(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution. 27728
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(G) Institutions of higher education that enroll students receiving needs-based financial aid grants under this section shall report to the board all students who have received needs-based financial aid grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's 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 service commission of all refunds so received. 27732
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Sec. 3333.162. (A) As used in this section, "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code. 27745
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(B) By April 15, 2007, the Ohio board of regents, in consultation with the department of education, public adult and secondary career-technical education institutions, and state institutions of higher education, shall establish criteria, policies, and procedures that enable students to transfer agreed upon technical courses completed through an adult career-technical education institution, a public secondary career-technical institution, or a state institution of higher education to a state institution of higher education without unnecessary duplication or institutional barriers. The courses to which the criteria, policies, and procedures apply shall be those that adhere to recognized industry standards and equivalent coursework common to the secondary career pathway and adult career-technical education system and regionally accredited state institutions of higher education. Where applicable, the policies and procedures shall build upon the articulation agreement and transfer initiative course equivalency system required by section 3333.16 of the Revised Code. 27748
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(C) By April 15, 2006, the board shall report to the general assembly on its progress in establishing these policies and procedures. 27766
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Sec. 3333.27. As used in this section: 27769

(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. 27770
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(B) "Resident" and "full-time student" have the meanings 27774

established for purposes of this section by rule of the Ohio board of regents. 27775
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The board shall establish and administer a student choice grant program and shall adopt rules for the administration of the program. 27777
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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. 27780
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The board shall prescribe the form and manner of application for grants including the manner of certification by eligible institutions that each applicant from such institution is enrolled in a bachelor's degree program as a full-time student and has an academic record that meets or exceeds the standard established by the board. 27798
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A grant awarded to an eligible student shall be paid to the institution in which the student is enrolled, and the institution 27804
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shall reduce the student's instructional and general charges by 27806
the amount of the grant. Each grant awarded shall be prorated and 27807
paid in equal installments at the time of enrollment for each term 27808
of the academic year for which the grant is awarded. No student 27809
shall be eligible to receive a grant for more than ten semesters, 27810
fifteen quarters, or the equivalent of five academic years. 27811

The receipt of an Ohio student choice grant shall not affect 27812
a student's eligibility for assistance, or the amount of such 27813
assistance, granted under section 3315.33, 3333.12, 3333.122, 27814
3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised 27815
Code. If a student receives assistance under one or more of such 27816
sections, the student choice grant made to the student shall not 27817
exceed the difference between the amount of assistance received 27818
under such sections and the total instructional and general 27819
charges of the institution in which the student is enrolled. 27820

The general assembly shall support the student choice grant 27821
program by such sums and in such manner as it may provide, but the 27822
board may also receive funds from other sources to support the 27823
program. 27824

No grant shall be made to any student enrolled in a course of 27825
study leading to a degree in theology, religion, or other field of 27826
preparation for a religious profession unless the course of study 27827
leads to an accredited bachelor of arts or bachelor of science 27828
degree. 27829

Institutions of higher education that enroll students 27830
receiving grants under this section shall report to the board the 27831
name of each student who has received such a grant but who is no 27832
longer eligible for all or part of such grant and shall refund all 27833
moneys due to the state within thirty days after the beginning of 27834
the term immediately following the term in which the student was 27835
no longer eligible to receive all or part of the grant. There 27836

shall be an interest charge of one per cent per month on all 27837
moneys due and payable after such thirty-day period. The board 27838
shall immediately notify the office of budget and management and 27839
~~the legislative budget office of~~ the legislative service 27840
commission of all refunds received. 27841

Sec. 3333.28. (A) The Ohio board of regents shall establish 27842
the nurse education assistance program, the purpose of which shall 27843
be to make loans to students enrolled in prelicensure nurse 27844
education programs at institutions approved by the board of 27845
nursing under section 4723.06 of the Revised Code and 27846
postlicensure nurse education programs approved by the board of 27847
regents under section 3333.04 of the Revised Code or offered by an 27848
institution holding a certificate of authorization issued by the 27849
board of regents under Chapter 1713. of the Revised Code. The 27850
board of nursing shall assist the board of regents in 27851
administering the program. 27852

(B) There is hereby created in the state treasury the nurse 27853
education assistance fund, which shall consist of all money 27854
transferred to it pursuant to section 4743.05 of the Revised Code. 27855
The fund shall be used by the board of regents for loans made 27856
under division (A) of this section and for expenses of 27857
administering the loan program. 27858

(C) The Between July 1, 2005, and January 1, 2012, the board 27859
of regents shall distribute money in the nurse education 27860
assistance fund in the following manner: 27861

(1)(a) Fifty per cent of available funds shall be awarded as 27862
loans to registered nurses enrolled in postlicensure nurse 27863
education programs described in division (A) of this section. To 27864
be eligible for a loan, the applicant shall provide the board with 27865
a letter of intent to practice as a faculty member at a 27866
prelicensure or postlicensure program for nursing in this state 27867

upon completion of the applicant's academic program. 27868

(b) If the borrower of a loan under division (C)(1)(a) of this section secures employment as a faculty member of an approved nursing education program in this state within six months following graduation from an approved nurse education program, the board may forgive the principal and interest of the student's loans received under division (C)(1)(a) of this section at a rate of twenty-five per cent per year, for a maximum of four years, for each year in which the borrower is so employed. A deferment of the service obligation, and other conditions regarding the forgiveness of loans may be granted as provided by the rules adopted under division (D)(7) of this section. 27869
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(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the board of regents may consider other factors it determines relevant in ranking the applications. 27880
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(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year. 27886
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(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code. 27889
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(3) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure professional nurse education programs for licensed practical nurses, as defined in section 4723.01 of the Revised Code. 27893
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After January 1, 2012, the board of regents shall determine the manner in which to distribute loans under this section. 27897
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(D) Subject to the requirements specified in division (C) of this section, the board of regents shall adopt rules in accordance with Chapter 119. of the Revised Code establishing: 27899
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(1) Eligibility criteria for receipt of a loan; 27902

(2) Loan application procedures; 27903

(3) The amounts in which loans may be made and the total amount that may be loaned to an individual; 27904
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(4) The total amount of loans that can be made each year; 27906

(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance; 27907
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(6) Interest and principal repayment schedules; 27909

(7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven; 27910
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(8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession; 27913
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(9) Any other matters incidental to the operation of the program. 27916
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~~(D)~~(E) 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 division (C)(1)(b) of this section, in the case of loans awarded under division (C)(1)(a) of this section, or by the board of regents by rule adopted under division ~~(C)~~(D)(7) of this section, in the case of other loans awarded under this section. 27918
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~~(E)~~(F) 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, 3333.122, 3333.22, 27925
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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.

Sec. 3333.38. (A) As used in this section:

(1) "Institution of higher education" includes all of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A nonprofit institution issued a certificate of authorization by the Ohio board of regents under Chapter 1713. of the Revised Code;

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;

(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.

(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.

(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the individual applies for assistance of that nature:

(1) A violation of section 2917.02 or 2917.03 of the Revised Code; 27958
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(2) A violation of section 2917.04 of the Revised Code that is a misdemeanor of the fourth degree; 27960
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(3) A violation of section 2917.13 of the Revised Code that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code. 27962
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(C) If an individual is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of section 2917.02 or 2917.03 of the Revised Code, and if the individual is enrolled in a state-supported institution of higher education, the institution in which the individual is enrolled shall immediately dismiss the individual. No state-supported institution of higher education shall admit an individual of that nature for one academic year after the individual applies for admission to a state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students. 27967
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Sec. 3334.01. As used in this chapter: 27979

(A) "Aggregate original principal amount" means the aggregate of the initial offering prices to the public of college savings bonds, exclusive of accrued interest, if any. "Aggregate original principal amount" does not mean the aggregate accreted amount payable at maturity or redemption of such bonds. 27980
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(B) "Beneficiary" means: 27985

(1) An individual designated by the purchaser under a tuition payment contract or through a scholarship program as the 27986
27987

individual on whose behalf tuition ~~credits~~ units purchased under 27988
the contract or awarded through the scholarship program will be 27989
applied toward the payment of undergraduate, graduate, or 27990
professional tuition; or 27991

(2) An individual designated by the contributor under a 27992
variable college savings program contract as the individual whose 27993
tuition and other higher education expenses will be paid from a 27994
variable college savings program account. 27995

(C) "Capital appreciation bond" means a bond for which the 27996
following is true: 27997

(1) The principal amount is less than the amount payable at 27998
maturity or early redemption; and 27999

(2) No interest is payable on a current basis. 28000

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition 28001
trust authority purchased under section 3334.09 of the Revised 28002
Code. "Tuition unit" includes a tuition credit purchased prior to 28003
July 1, 1994. 28004

(E) "College savings bonds" means revenue and other 28005
obligations issued on behalf of the state or any agency or issuing 28006
authority thereof as a zero-coupon or capital appreciation bond, 28007
and designated as college savings bonds as provided in this 28008
chapter. "College savings bond issue" means any issue of bonds of 28009
which any part has been designated as college savings bonds. 28010

(F) "Institution of higher education" means a state 28011
institution of higher education, a private college, university, or 28012
other postsecondary institution located in this state that 28013
possesses a certificate of authorization issued by the Ohio board 28014
of regents pursuant to Chapter 1713. of the Revised Code or a 28015
certificate of registration issued by the state board of career 28016
colleges and schools under Chapter 3332. of the Revised Code, or 28017

an accredited college, university, or other postsecondary 28018
institution located outside this state that is accredited by an 28019
accrediting organization or professional association recognized by 28020
the authority. To be considered an institution of higher 28021
education, an institution shall meet the definition of an eligible 28022
educational institution under section 529 of the Internal Revenue 28023
Code. 28024

(G) "Issuing authority" means any authority, commission, 28025
body, agency, or individual empowered by the Ohio Constitution or 28026
the Revised Code to issue bonds or any other debt obligation of 28027
the state or any agency or department thereof. "Issuer" means the 28028
issuing authority or, if so designated under division (B) of 28029
section 3334.04 of the Revised Code, the treasurer of state. 28030

(H) "Tuition" means the charges imposed to attend an 28031
institution of higher education as an undergraduate, graduate, or 28032
professional student and all fees required as a condition of 28033
enrollment, as determined by the Ohio tuition trust authority. 28034
"Tuition" does not include laboratory fees, room and board, or 28035
other similar fees and charges. 28036

(I) "Weighted average tuition" means the tuition cost 28037
resulting from the following calculation: 28038

(1) Add the products of the annual undergraduate tuition 28039
charged to Ohio residents at each four-year state university 28040
multiplied by that institution's total number of undergraduate 28041
fiscal year equated students; and 28042

(2) Divide the gross total of the products from division 28043
(I)(1) of this section by the total number of undergraduate fiscal 28044
year equated students attending four-year state universities. 28045

When making this calculation, the "annual undergraduate 28046
tuition charged to Ohio residents" shall not incorporate any 28047
tuition reductions that vary in amount among individual recipients 28048

and that are awarded to Ohio residents based upon their particular 28049
circumstances, beyond any minimum amount awarded uniformly to all 28050
Ohio residents. In addition, any tuition reductions awarded 28051
uniformly to all Ohio residents shall be incorporated into this 28052
calculation. 28053

(J) "Zero-coupon bond" means a bond which has a stated 28054
interest rate of zero per cent and on which no interest is payable 28055
until the maturity or early redemption of the bond, and is offered 28056
at a substantial discount from its original stated principal 28057
amount. 28058

(K) "State institution of higher education" includes the 28059
state universities listed in section 3345.011 of the Revised Code, 28060
community colleges created pursuant to Chapter 3354. of the 28061
Revised Code, university branches created pursuant to Chapter 28062
3355. of the Revised Code, technical colleges created pursuant to 28063
Chapter 3357. of the Revised Code, state community colleges 28064
created pursuant to Chapter 3358. of the Revised Code, the medical 28065
university of Ohio at Toledo, and the northeastern Ohio 28066
universities college of medicine. 28067

(L) "Four-year state university" means those state 28068
universities listed in section 3345.011 of the Revised Code. 28069

(M) "Principal amount" refers to the initial offering price 28070
to the public of an obligation, exclusive of the accrued interest, 28071
if any. "Principal amount" does not refer to the aggregate 28072
accrued amount payable at maturity or redemption of an 28073
obligation. 28074

(N) "Scholarship program" means a program registered with the 28075
Ohio tuition trust authority pursuant to section 3334.17 of the 28076
Revised Code. 28077

(O) "Internal Revenue Code" means the "Internal Revenue Code 28078
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended. 28079

(P) "Other higher education expenses" means room and board 28080
and books, supplies, equipment, and nontuition-related fees 28081
associated with the cost of attendance of a beneficiary at an 28082
institution of higher education, but only to the extent that such 28083
expenses meet the definition of "qualified higher education 28084
expenses" under section 529 of the Internal Revenue Code. "Other 28085
higher education expenses" does not include tuition as defined in 28086
division (H) of this section. 28087

(Q) "Purchaser" means the person signing the tuition payment 28088
contract, who controls the account and acquires tuition ~~credits~~ 28089
units for an account under the terms and conditions of the 28090
contract. 28091

(R) "Contributor" means a person who signs a variable college 28092
savings program contract with the Ohio tuition trust authority and 28093
contributes to and owns the account created under the contract. 28094

(S) "Contribution" means any payment directly allocated to an 28095
account for the benefit of the designated beneficiary of the 28096
account. 28097

Sec. 3334.02. (A) In order to help make higher education 28098
affordable and accessible to all citizens of Ohio, to maintain 28099
state institutions of higher education by helping to provide a 28100
stable financial base to these institutions, to provide the 28101
citizens of Ohio with financing assistance for higher education 28102
and protection against rising tuition costs, to encourage saving 28103
to enhance the ability of citizens of Ohio to obtain financial 28104
access to institutions of higher education, to encourage 28105
elementary and secondary students in this state to achieve 28106
academic excellence, and to promote a well-educated and 28107
financially secure population to the ultimate benefit of all 28108
citizens of the state of Ohio, there is hereby created the Ohio 28109
college savings program. The program shall consist of the issuance 28110

of college savings bonds and the sale of tuition ~~credits and, if~~ 28111
~~offered, supplemental credits~~ units. 28112

(B) The provisions of Chapter 1707. of the Revised Code shall 28113
not apply to tuition ~~credits~~ units or any agreement or transaction 28114
related thereto. 28115

(C) To provide the citizens of Ohio with a choice of 28116
tax-advantaged college savings programs and the opportunity to 28117
participate in more than one type of college savings program at a 28118
time, the Ohio tuition trust authority shall establish and 28119
administer a variable college savings program as a qualified state 28120
tuition program under section 529 of the Internal Revenue Code. 28121
The program shall allow contributors to make cash contributions to 28122
variable college savings program accounts created for the purpose 28123
of paying future tuition and other higher education expenses and 28124
providing variable rates of return on contributions. 28125

(D) A person may participate simultaneously in both the Ohio 28126
college savings program and the variable college savings program. 28127

Sec. 3334.03. (A) There is hereby created the Ohio tuition 28128
trust authority, which shall have the powers enumerated in this 28129
chapter and which shall operate as a qualified state tuition 28130
program within the meaning of section 529 of the Internal Revenue 28131
Code. The exercise by the authority of its powers shall be and is 28132
hereby declared an essential state governmental function. The 28133
authority is subject to all provisions of law generally applicable 28134
to state agencies which do not conflict with the provisions of 28135
this chapter. 28136

(B) The Ohio tuition trust authority shall consist of eleven 28137
members, no more than six of whom shall be of the same political 28138
party. Six members shall be appointed by the governor with the 28139
advice and consent of the senate as follows: one shall represent 28140
state institutions of higher education, one shall represent 28141

private nonprofit colleges and universities located in Ohio, one 28142
shall have experience in the field of marketing or public 28143
relations, one shall have experience in the field of information 28144
systems design or management, and two shall have experience in the 28145
field of banking, investment banking, insurance, or law. Four 28146
members shall be appointed by the speaker of the house of 28147
representatives and the president of the senate as follows: the 28148
speaker of the house of representatives shall appoint one member 28149
of the house from each political party and the president of the 28150
senate shall appoint one member of the senate from each political 28151
party. The chancellor of the board of regents shall be an ex 28152
officio voting member; provided, however, that the chancellor may 28153
designate a vice-chancellor of the board of regents to serve as 28154
the chancellor's representative. The political party of the 28155
chancellor shall be deemed the political party of the designee for 28156
purposes of determining that no more than six members are of the 28157
same political party. 28158

Initial gubernatorial appointees to the authority shall serve 28159
staggered terms, with two terms expiring on January 31, 1991, one 28160
term expiring on January 31, 1992, and one term expiring on 28161
January 31, 1993. The governor shall appoint two additional 28162
members to the authority no later than thirty days after ~~the~~ 28163
~~effective date of this amendment~~ March 30, 1999, and their initial 28164
terms shall expire January 31, 2002. Thereafter, terms of office 28165
for gubernatorial appointees shall be for four years. The initial 28166
terms of the four legislative members shall expire on January 31, 28167
1991. Thereafter legislative members shall serve two-year terms, 28168
provided that legislative members may continue to serve on the 28169
authority only if they remain members of the general assembly. Any 28170
vacancy on the authority shall be filled in the same manner as the 28171
original appointment, except that any person appointed to fill a 28172
vacancy shall be appointed to the remainder of the unexpired term. 28173

Any member is eligible for reappointment. 28174

(C) Any member may be removed by the appointing authority for 28175
misfeasance, malfeasance, or willful neglect of duty or for other 28176
cause after notice and a public hearing, unless the notice and 28177
hearing are waived in writing by the member. Members shall serve 28178
without compensation but shall receive their reasonable and 28179
necessary expenses incurred in the conduct of authority business. 28180

(D) The speaker of the house of representatives and the 28181
president of the senate shall each designate a member of the 28182
authority to serve as co-chairpersons. The six gubernatorial 28183
appointees and the chancellor of the board of regents or the 28184
chancellor's designee shall serve as the executive committee of 28185
the authority, and shall elect an executive chairperson from among 28186
the executive committee members. The authority and the executive 28187
committee may elect such other officers as determined by the 28188
authority or the executive committee respectively. The authority 28189
shall meet at least annually at the call of either co-chairperson 28190
and at such other times as either co-chairperson or the authority 28191
determines necessary. In the absence of both co-chairpersons, the 28192
executive chairperson shall serve as the presiding officer of the 28193
authority. The executive committee shall meet at the call of the 28194
executive chairperson or as the executive committee determines 28195
necessary. The authority may delegate to the executive committee 28196
such duties and responsibilities as the authority determines 28197
appropriate, except that the authority may not delegate to the 28198
executive committee the final determination of the annual price of 28199
a tuition ~~credit~~ unit, the final designation of bonds as college 28200
savings bonds, or the employment of an executive director of the 28201
authority. Upon such delegation, the executive committee shall 28202
have the authority to act pursuant to such delegation without 28203
further approval or action by the authority. A majority of the 28204
authority shall constitute a quorum of the authority, and the 28205

affirmative vote of a majority of the members present shall be 28206
necessary for any action taken by the authority. A majority of the 28207
executive committee shall constitute a quorum of the executive 28208
committee, and the affirmative vote of a majority of the members 28209
present shall be necessary for any action taken by the executive 28210
committee. No vacancy in the membership of the authority or the 28211
executive committee shall impair the rights of a quorum to 28212
exercise all rights and perform all duties of the authority or the 28213
executive committee respectively. 28214

Sec. 3334.07. (A) The Ohio tuition trust authority shall 28215
develop a plan for the sale of tuition ~~credits~~ units. The Ohio 28216
board of regents shall cooperate with the authority and provide 28217
technical assistance upon request. 28218

(B) Annually, the authority shall determine the weighted 28219
average tuition of four-year state universities in the academic 28220
year that begins on or after the first day of August of the 28221
current calendar year, and shall establish the price of a tuition 28222
~~credit~~ unit in the ensuing sales period. Such price shall be based 28223
on sound actuarial principles, and shall, to the extent 28224
actuarially possible, reasonably approximate one per cent of the 28225
weighted average tuition for that academic year plus the costs of 28226
administering the ~~tuition-credit~~ program that are in excess of 28227
general revenue fund appropriations for administrative costs. The 28228
sales period to which such price applies shall consist of twelve 28229
months, and the authority by rule shall establish the date on 28230
which the sales period begins. If circumstances arise during a 28231
sales period that the authority determines causes the price of 28232
tuition ~~credits~~ units to be insufficient to ensure the actuarial 28233
soundness of the Ohio tuition trust fund, the authority may adjust 28234
the price of tuition ~~credits~~ units purchased during the remainder 28235
of the sales period. To promote the purchase of tuition ~~credits~~ 28236
units and in accordance with actuarially sound principles, the 28237

authority may adjust the sales price as part of incentive 28238
programs, such as discounting for ~~lump sum~~ lump sum purchases and 28239
multi-year installment plans at a fixed rate of purchase. 28240

Sec. 3334.08. (A) Subject to division (B) of this section, in 28241
addition to any other powers conferred by this chapter, the Ohio 28242
tuition trust authority may do any of the following: 28243

(1) Impose reasonable residency requirements for 28244
beneficiaries of tuition ~~credits~~ units; 28245

(2) Impose reasonable limits on the number of tuition ~~credit~~ 28246
unit participants; 28247

(3) Impose and collect administrative fees and charges in 28248
connection with any transaction under this chapter; 28249

(4) Purchase insurance from insurers licensed to do business 28250
in this state providing for coverage against any loss in 28251
connection with the authority's property, assets, or activities or 28252
to further ensure the value of tuition ~~credits~~ units; 28253

(5) Indemnify or purchase policies of insurance on behalf of 28254
members, officers, and employees of the authority from insurers 28255
licensed to do business in this state providing for coverage for 28256
any liability incurred in connection with any civil action, 28257
demand, or claim against a director, officer, or employee by 28258
reason of an act or omission by the director, officer, or employee 28259
that was not manifestly outside the scope of the employment or 28260
official duties of the director, officer, or employee or with 28261
malicious purpose, in bad faith, or in a wanton or reckless 28262
manner; 28263

(6) Make, execute, and deliver contracts, conveyances, and 28264
other instruments necessary to the exercise and discharge of the 28265
powers and duties of the authority; 28266

(7) Promote, advertise, and publicize the Ohio college 28267

savings program and the variable college savings program; 28268

(8) Adopt rules under section 111.15 of the Revised Code for 28269
the implementation of the Ohio college savings program; 28270

(9) Contract, for the provision of all or part of the 28271
services necessary for the management and operation of the Ohio 28272
college savings program and the variable college savings program, 28273
with a bank, trust company, savings and loan association, 28274
insurance company, or licensed dealer in securities if the bank, 28275
company, association, or dealer is authorized to do business in 28276
this state and information about the contract is filed with the 28277
controlling board pursuant to division (D)(6) of section 127.16 of 28278
the Revised Code; 28279

(10) Contract for other services, or for goods, needed by the 28280
authority in the conduct of its business, including but not 28281
limited to credit card services; 28282

(11) Employ an executive director and other personnel as 28283
necessary to carry out its responsibilities under this chapter, 28284
and fix the compensation of these persons. All employees of the 28285
authority shall be in the unclassified civil service and shall be 28286
eligible for membership in the public employees retirement system. 28287

(12) Contract with financial consultants, actuaries, 28288
auditors, and other consultants as necessary to carry out its 28289
responsibilities under this chapter; 28290

(13) Enter into agreements with any agency of the state or 28291
its political subdivisions or with private employers under which 28292
an employee may agree to have a designated amount deducted in each 28293
payroll period from the wages or salary due the employee for the 28294
purpose of purchasing tuition ~~credits~~ units pursuant to a tuition 28295
payment contract or making contributions pursuant to a variable 28296
college savings program contract; 28297

- (14) Enter into an agreement with the treasurer of state 28298
under which the treasurer of state will receive, and credit to the 28299
Ohio tuition trust fund or variable college savings program fund, 28300
from any bank or savings and loan association authorized to do 28301
business in this state, amounts that a depositor of the bank or 28302
association authorizes the bank or association to withdraw 28303
periodically from the depositor's account for the purpose of 28304
purchasing tuition ~~credits~~ units pursuant to a tuition payment 28305
contract or making contributions pursuant to a variable college 28306
savings program contract; 28307
- (15) Solicit and accept gifts, grants, and loans from any 28308
person or governmental agency and participate in any governmental 28309
program; 28310
- (16) Impose limits on the number of ~~credits~~ units which may 28311
be purchased on behalf of or assigned or awarded to any 28312
beneficiary and on the total amount of contributions that may be 28313
made on behalf of a beneficiary; 28314
- (17) Impose restrictions on the substitution of another 28315
individual for the original beneficiary under the Ohio college 28316
savings program; 28317
- (18) Impose a limit on the age of a beneficiary, above which 28318
tuition ~~credits~~ units may not be purchased on behalf of that 28319
beneficiary; 28320
- (19) Enter into a cooperative agreement with the treasurer of 28321
state to provide for the direct disbursement of payments under 28322
tuition payment or variable college savings program contracts; 28323
- (20) Determine the other higher education expenses for which 28324
tuition ~~credits~~ units or contributions may be used; 28325
- (21) Terminate any tuition payment or variable college 28326
savings program contract if no purchases or contributions are made 28327

for a period of three years or more and there are fewer than a
total of five tuition units ~~or tuition credits~~ or less than a
dollar amount set by rule on account, provided that notice of a
possible termination shall be provided in advance, explaining any
options to prevent termination, and a reasonable amount of time
shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or
variable college savings program contract;

(23) Perform all acts necessary and proper to carry out the
duties and responsibilities of the authority pursuant to this
chapter.

(B) The authority shall adopt rules under section 111.15 of
the Revised Code for the implementation and administration of the
variable college savings program. The rules shall provide
taxpayers with the maximum tax advantages and flexibility
consistent with section 529 of the Internal Revenue Code and
regulations adopted thereunder with regard to disposition of
contributions and earnings, designation of beneficiaries, and
rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the
provisions of Chapters 123., 125., and 4117. of the Revised Code
shall not apply to the authority. The department of administrative
services shall, upon the request of the authority, act as the
authority's agent for the purchase of equipment, supplies,
insurance, or services, or the performance of administrative
services pursuant to Chapter 125. of the Revised Code.

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 28358
resident of this state at the time the contract is entered into. A 28359
tuition payment contract shall allow any person to purchase 28360
tuition ~~credits~~ units at the price determined by the authority 28361
pursuant to section 3334.07 or 3334.12 of the Revised Code for the 28362
year in which the tuition ~~credit~~ unit is purchased. The purchaser 28363
shall name in the payment contract one specific individual as the 28364
beneficiary for the tuition ~~credits~~ units. 28365

In accordance with rules of the authority, ~~credits~~ units may 28366
be transferred to the credit of another beneficiary and a new 28367
beneficiary may be substituted for the beneficiary originally 28368
named in the contract. 28369

(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to 28370
an amount equal to one per cent of the weighted average tuition. 28371

(C) Nothing in this chapter or in any tuition payment 28372
contract entered into pursuant to this chapter shall be construed 28373
as a guarantee by the state, the authority, or any institution of 28374
higher education that a beneficiary will be admitted to an 28375
institution of higher education, or, upon admission to an 28376
institution of higher education, will be permitted to continue to 28377
attend or will receive a degree from an institution of higher 28378
education. Nothing in this chapter or in any tuition payment 28379
contract entered into pursuant to this chapter shall be considered 28380
a guarantee that the beneficiary's cost of tuition at an 28381
institution of higher education other than a state institution of 28382
higher education will be covered in full by the proceeds of the 28383
beneficiary's tuition ~~credits~~ units. 28384

(D) The following information shall be disclosed in writing 28385
to each purchaser of tuition ~~credits~~ units and, where appropriate, 28386
to each entity establishing a scholarship program under section 28387
3334.17 of the Revised Code: 28388

(1) The terms and conditions for the purchase and use of tuition credits <u>units</u> ;	28389
	28390
(2) In the case of a contract described by division (A) of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of credits <u>units</u> in the payment account;	28391
	28392
	28393
	28394
(3) The person or entity entitled to terminate the contract;	28395
(4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person or entity terminating the contract, or that person's or entity's designee, is entitled upon termination;	28396
	28397
	28398
	28399
(5) The obligation of the authority to make payments to a beneficiary, or an institution of higher education on behalf of a beneficiary, under division (B) of this section based upon the number of tuition credits <u>units</u> purchased on behalf of the beneficiary or awarded to the beneficiary pursuant to a scholarship program;	28400
	28401
	28402
	28403
	28404
	28405
(6) The method by which tuition credits <u>units</u> shall be applied toward payment of tuition and other higher education expenses if in any academic term the beneficiary is a part-time student;	28406
	28407
	28408
	28409
(7) The period of time during which a beneficiary may receive benefits under the contract;	28410
	28411
(8) The terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;	28412
	28413
	28414
	28415
(9) All other rights and obligations of the purchaser and the authority, including the provisions of division (A) of section 3334.12 of the Revised Code, and any other terms, conditions, and	28416
	28417
	28418

provisions the authority considers necessary and appropriate. 28419

(E) A tuition payment contract may provide that the authority 28420
will pay directly to the institution of higher education in which 28421
a beneficiary is enrolled during a term the amount represented by 28422
the tuition ~~credits~~ units being used that term. 28423

(F) A tuition payment contract described by division (A) of 28424
this section may provide that if the contract has not been 28425
terminated or ~~credits~~ units purchased under the contract have not 28426
been applied toward the payment of tuition or other higher 28427
education expenses within a specified period of time, the 28428
authority may, after making a reasonable effort to locate the 28429
purchaser of the tuition ~~credits~~ units, the beneficiary, and any 28430
person designated in the contract to act on behalf of the 28431
purchaser of the ~~credits~~ units or the beneficiary, terminate the 28432
contract and retain the amounts payable under the contract. 28433

(G) If, at any time after tuition ~~credits~~ units are purchased 28434
on behalf of a beneficiary or awarded to a beneficiary or pursuant 28435
to a scholarship program, the beneficiary becomes a nonresident of 28436
this state, or, if the beneficiary was not a resident of this 28437
state at the time the tuition payment contract was entered into, 28438
the purchaser becomes a nonresident of this state, ~~credits~~ units 28439
purchased or awarded while the beneficiary was a resident may be 28440
applied on behalf of the beneficiary toward the payment of tuition 28441
at an institution of higher education and other higher education 28442
expenses in the manner specified in division (B) of this section, 28443
except that if the beneficiary enrolls in a state institution of 28444
higher education, the beneficiary shall be responsible for payment 28445
of all nonresident fees charged to out-of-state residents by the 28446
institution in which the beneficiary is enrolled. 28447

Sec. 3334.10. Divisions (A), and (B), ~~(C), and (D)~~ of this 28448
section do not apply to scholarship programs established under 28449

section 3334.17 of the Revised Code. 28450

(A) Unless otherwise provided for in the ~~contract~~, a tuition 28451
payment contract ~~may be terminated by the purchaser under any of~~ 28452
~~the following circumstances upon the written request of the~~ 28453
~~purchaser to the authority:~~ 28454

~~(1) Upon the death or permanent disability of the~~ 28455
~~beneficiary;~~ 28456

~~(2) Upon notification to the Ohio tuition trust authority in~~ 28457
~~writing that the beneficiary is age eighteen or older, has decided~~ 28458
~~not to attend an institution of higher education, and requests~~ 28459
~~that the contract be terminated;~~ 28460

~~(3) Upon the beneficiary's completion of the degree~~ 28461
~~requirements at an institution of higher education;~~ 28462

~~(4) Upon the rollover of all amounts in a tuition credit~~ 28463
~~account to an equivalent account in another state;~~ 28464

~~(5) Upon the occurrence of other circumstances determined by~~ 28465
~~the authority to be grounds for termination.~~ 28466

~~(B) The authority shall determine the method and schedule for~~ 28467
~~payment of refunds upon termination of a tuition payment contract.~~ 28468
, the purchaser may rollover amounts to another qualified tuition 28469
program under section 529 of the Internal Revenue Code or 28470
terminate the contract for any reason by filing written notice 28471
with the Ohio tuition trust authority. 28472

~~(1) In cases described by division (A)(2) or (3) of this~~ 28473
~~section, If the contract is terminated and the beneficiary is~~ 28474
~~under eighteen years of age, the authority shall use actuarially~~ 28475
~~sound principles to determine the amount of the refund shall be~~ 28476
~~equal to not less than one per cent of the weighted average~~ 28477
~~tuition in the academic year the refund is paid, multiplied by the~~ 28478
~~number of tuition credits purchased and not used, minus any~~ 28479

~~reasonable charges and fees provided for by the authority, or such~~ 28480
~~other lesser sum as shall be determined by the authority but only~~ 28481
~~to the extent that such a lesser sum is necessary to meet the~~ 28482
~~refund penalty requirements for qualified state tuition programs~~ 28483
~~under section 529 of the Internal Revenue Code.~~ 28484

~~(2) In cases described by division (A)(1) of this section~~ If 28485
the contract is terminated because of the death or permanent 28486
disability of the beneficiary, the amount of the refund shall be 28487
equal to the greater of the following: 28488

(a) One per cent of the weighted average tuition in the 28489
academic year the refund is paid, multiplied by the number of 28490
tuition ~~credits~~ units purchased and not used; 28491

(b) The total purchase price of all tuition ~~credits~~ units 28492
purchased for the beneficiary and not used. 28493

~~(3) In cases described by division (A)(5) of this section,~~ 28494
~~the amount of the refund shall be either of the following as~~ 28495
~~determined by the authority:~~ 28496

~~(a) The refund provided by division (B)(1) of this section:~~ 28497

~~(b) The refund provided by division (B)(2) of this section,~~ 28498
~~or such other lesser sum as shall be determined by the authority~~ 28499
~~but only to the extent that such a lesser sum is necessary to meet~~ 28500
~~the refund penalty requirements for qualified state tuition~~ 28501
~~programs under section 529 of the Internal Revenue Code~~ If all or 28502
part of the amount accrued under the contract is liquidated for a 28503
rollover to another qualified tuition program under section 529 of 28504
the Internal Revenue Code, the rollover amount shall be determined 28505
in an actuarially sound manner. 28506

~~(C) Unless otherwise provided for in the contract, a (B) The~~ 28507
contributor of a variable college savings program account may be 28508
terminated by rollover amounts to another qualified tuition 28509
program under section 529 of the Internal Revenue Code or 28510

~~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.~~ 28511
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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.~~ 28516
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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.~~ 28520
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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.~~ 28527
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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 Internal Revenue Code.~~ 28534
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~~(E) In the case of a (C) A scholarship program, may request a refund of tuition credits units in the program's account may be made only for just cause with the approval of by filing a written request with the authority. The refund shall be paid to the entity~~ 28538
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that established the scholarship program or, with that entity's 28542
approval, to the authority if this is authorized by federal tax 28543
law. The amount of any refund shall be determined by the authority 28544
and shall meet the requirements for refunds made on account of 28545
scholarships under section 529 of the Internal Revenue Code. 28546

~~(F) If a beneficiary is awarded a scholarship other than 28547
under a scholarship program, a waiver of tuition, or similar 28548
subvention that the authority determines cannot be converted into 28549
money by the beneficiary, the authority shall, during each 28550
academic term that the beneficiary furnishes the authority such 28551
information about the scholarship, waiver, or similar subvention 28552
as the authority requires, refund to the person designated in the 28553
contract, or, in the case of a beneficiary under a scholarship 28554
program, to the beneficiary an amount equal to the value that the 28555
tuition credits or the amounts in the variable college savings 28556
program account that are not needed on account of the scholarship, 28557
waiver, or similar subvention would otherwise have to the 28558
beneficiary that term at the institution of higher education where 28559
the beneficiary is enrolled. The authority may, at its sole 28560
option, designate the institution of higher education at which the 28561
beneficiary is enrolled as the agent of the authority for purposes 28562
of refunds pursuant to this division. 28563~~

~~(G) If, in any academic term for which tuition credits or any 28564
amounts in a variable college savings program account have been 28565
used to pay all or part of a beneficiary's tuition, the 28566
beneficiary withdraws from the institution of higher education at 28567
which the beneficiary is enrolled prior to the end of the academic 28568
term, a pro rata share of any refund of tuition as a result of the 28569
withdrawal equal to that portion of the tuition paid with tuition 28570
credits or the amounts in a variable college savings program 28571
account shall be made to the authority, unless the authority 28572
designates a different procedure. The authority shall credit any 28573~~

~~refund received, less any reasonable charges and fees provided for~~ 28574
~~by the authority, to the appropriate account established under~~ 28575
~~division (F)(1) or (2) of section 3334.11 of the Revised Code or~~ 28576
~~division (H) of this section.~~ 28577

~~(H)(D)~~ The authority shall maintain a separate account for 28578
each variable college savings contract entered into pursuant to 28579
division (A) of section 3334.18 of the Revised Code for 28580
contributions made on behalf of a beneficiary, showing the name of 28581
the beneficiary of that contract and the amount of contributions 28582
made pursuant to that contract. Upon request of any beneficiary or 28583
contributor, the authority shall provide a statement indicating, 28584
in the case of a beneficiary, the amount of contributions made 28585
pursuant to that contract on behalf of the beneficiary, or, in the 28586
case of a contributor, contributions made, disbursed, or refunded 28587
pursuant to that contract. 28588

Sec. 3334.11. (A) The assets of the Ohio tuition trust 28589
authority reserved for payment of the obligations of the authority 28590
pursuant to tuition payment contracts shall be placed in a fund, 28591
which is hereby created and shall be known as the Ohio tuition 28592
trust fund. The fund shall be in the custody of the treasurer of 28593
state, but shall not be part of the state treasury. That portion 28594
of payments received by the authority or the treasurer of state 28595
from persons purchasing tuition ~~credits~~ units under tuition 28596
payment contracts that the authority determines is actuarially 28597
necessary for the payment of obligations of the authority pursuant 28598
to tuition payment contracts, all interest and investment income 28599
earned by the fund, and all other receipts of the authority from 28600
any other source that the authority determines appropriate, shall 28601
be deposited in the fund. No purchaser or beneficiary of tuition 28602
~~credits~~ units shall have any claim against the funds of any state 28603
institution of higher education. All investment fees and other 28604

costs incurred in connection with the exercise of the investment 28605
powers of the authority pursuant to divisions (D) and (E) of this 28606
section shall be paid from the assets of the fund. 28607

(B) Unless otherwise provided by the authority, the assets of 28608
the Ohio tuition trust fund shall be expended in the following 28609
order: 28610

(1) To make payments to beneficiaries, or institutions of 28611
higher education on behalf of beneficiaries, under division (B) of 28612
section 3334.09 of the Revised Code; 28613

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and 28614
~~(F)~~(C) of section 3334.10 of the Revised Code; 28615

(3) To pay the investment fees and other costs of 28616
administering the fund. 28617

(C)(1) Except as may be provided in an agreement under 28618
division (A)(19) of section 3334.08 of the Revised Code, all 28619
disbursements from the Ohio tuition trust fund shall be made by 28620
the treasurer of state on order of a designee of the authority. 28621

(2) The treasurer of state shall deposit any portion of the 28622
Ohio tuition trust fund not needed for immediate use in the same 28623
manner as state funds are deposited. 28624

(D) The authority is the trustee of the Ohio tuition trust 28625
fund. The authority shall have full power to invest the assets of 28626
the fund and in exercising this power shall be subject to the 28627
limitations and requirements contained in divisions (K) to (M) of 28628
this section and sections 145.112 and 145.113 of the Revised Code. 28629
The evidences of title of all investments shall be delivered to 28630
the treasurer of state or to a qualified trustee designated by the 28631
treasurer of state as provided in section 135.18 of the Revised 28632
Code. Assets of the fund shall be administered by the authority in 28633
a manner designed to be actuarially sound so that the assets of 28634
the fund will be sufficient to satisfy the obligations of the 28635

authority pursuant to tuition payment contracts and defray the 28636
reasonable expenses of administering the fund. 28637

(E) The public employees retirement board shall, with the 28638
approval of the authority, exercise the investment powers of the 28639
authority as set forth in division (D) of this section until the 28640
authority determines that assumption and exercise by the authority 28641
of the investment powers is financially and administratively 28642
feasible. The investment powers shall be exercised by the public 28643
employees retirement board in a manner agreed upon by the 28644
authority that maximizes the return on investment and minimizes 28645
the administrative expenses. 28646

(F)(1) The authority shall maintain a separate account for 28647
each tuition payment contract entered into pursuant to division 28648
(A) of section 3334.09 of the Revised Code for the purchase of 28649
tuition ~~credits~~ units on behalf of a beneficiary or beneficiaries 28650
showing the beneficiary or beneficiaries of that contract and the 28651
number of tuition ~~credits~~ units purchased pursuant to that 28652
contract. Upon request of any beneficiary or person who has 28653
entered into a tuition payment contract, the authority shall 28654
provide a statement indicating, in the case of a beneficiary, the 28655
number of tuition ~~credits~~ units purchased on behalf of the 28656
beneficiary, or in the case of a person who has entered into a 28657
tuition payment contract, the number of tuition ~~credits~~ units 28658
purchased, used, or refunded pursuant to that contract. A 28659
beneficiary and person that have entered into a tuition payment 28660
contract each may file only one request under this division in any 28661
year. 28662

(2) The authority shall maintain an account for each 28663
scholarship program showing the number of tuition ~~credits~~ units 28664
that have been purchased for or donated to the program and the 28665
number of tuition ~~credits~~ units that have been used. Upon the 28666
request of the entity that established the scholarship program, 28667

the authority shall provide a statement indicating these numbers. 28668

(G) In addition to the Ohio tuition trust fund, there is 28669
hereby established a reserve fund that shall be in the custody of 28670
the treasurer of state but shall not be part of the state 28671
treasury, and shall be known as the Ohio tuition trust reserve 28672
fund, and an operating fund that shall be part of the state 28673
treasury, and shall be known as the Ohio tuition trust operating 28674
fund. That portion of payments received by the authority or the 28675
treasurer of state from persons purchasing tuition ~~credits~~ units 28676
under tuition payment contracts that the authority determines is 28677
not actuarially necessary for the payment of obligations of the 28678
authority pursuant to tuition payment contracts, any interest and 28679
investment income earned by the reserve fund, any administrative 28680
charges and fees imposed by the authority on transactions under 28681
this chapter or on purchasers or beneficiaries of tuition ~~credits~~ 28682
units, and all other receipts from any other source that the 28683
authority determines appropriate, shall be deposited in the 28684
reserve fund to pay the operating expenses of the authority and 28685
the costs of administering the program. The assets of the reserve 28686
fund may be invested in the same manner and subject to the same 28687
limitations set forth in divisions (D), (E), and (K) to (M) of 28688
this section and sections 145.112 and 145.113 of the Revised Code. 28689
All investment fees and other costs incurred in connection with 28690
the exercise of the investment powers shall be paid from the 28691
assets of the reserve fund. Except as otherwise provided for in 28692
this chapter, all operating expenses of the authority and costs of 28693
administering the program shall be paid from the operating fund. 28694
The treasurer shall, upon request of the authority, transfer funds 28695
from the reserve fund to the operating fund as the authority 28696
determines appropriate to pay those current operating expenses of 28697
the authority and costs of administering the program as the 28698
authority designates. Any interest or investment income earned on 28699
the assets of the operating fund shall be deposited in the 28700

operating fund. 28701

(H) In January of each year the authority shall report to 28702
each person who received any payments or refunds from the 28703
authority during the preceding year information relative to the 28704
value of the payments or refunds to assist in determining that 28705
person's tax liability. 28706

(I) The authority shall report to the tax commissioner any 28707
information, and at the times, as the tax commissioner requires to 28708
determine any tax liability that a person may have incurred during 28709
the preceding year as a result of having received any payments or 28710
refunds from the authority. 28711

(J) All records of the authority indicating the identity of 28712
purchasers and beneficiaries of tuition ~~credits~~ units or college 28713
savings bonds, the number of tuition ~~credits~~ units purchased, 28714
used, or refunded under a tuition payment contract, and the number 28715
of college savings bonds purchased, held, or redeemed are not 28716
public records within the meaning of section 149.43 of the Revised 28717
Code. 28718

(K) The authority and other fiduciaries shall discharge their 28719
duties with respect to the funds with care, skill, prudence, and 28720
diligence under the circumstances then prevailing that a prudent 28721
person acting in a like capacity and familiar with such matters 28722
would use in the conduct of an enterprise of a like character and 28723
with like aims; and by diversifying the investments of the assets 28724
of the funds so as to minimize the risk of large losses, unless 28725
under the circumstances it is clearly prudent not to do so. 28726

To facilitate investment of the funds, the authority may 28727
establish a partnership, trust, limited liability company, 28728
corporation, including a corporation exempt from taxation under 28729
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 28730
amended, or any other legal entity authorized to transact business 28731

in this state.

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(L) In exercising its fiduciary responsibility with respect to the investment of the assets of the funds, it shall be the intent of the authority to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the authority. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

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The authority shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the authority may contract for the administration of the assets of the funds, the authority shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the authority. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The authority shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

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When reporting on the performance of investments, the authority shall comply with the performance presentation standards established by the association for investment management and research.

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(M) All investments shall be purchased at current market 28763
prices and the evidences of title of the investments shall be 28764
placed in the hands of the treasurer of state, who is hereby 28765
designated as custodian thereof, or in the hands of the treasurer 28766
of state's authorized agent. The treasurer of state or the agent 28767
shall collect the principal, dividends, distributions, and 28768
interest thereon as they become due and payable and place them 28769
when so collected into the custodial funds. 28770

The treasurer of state shall pay for investments purchased by 28771
the authority on receipt of written or electronic instructions 28772
from the authority or the authority's designated agent authorizing 28773
the purchase and pending receipt of the evidence of title of the 28774
investment by the treasurer of state or the treasurer of state's 28775
authorized agent. The authority may sell investments held by the 28776
authority, and the treasurer of state or the treasurer of state's 28777
authorized agent shall accept payment from the purchaser and 28778
deliver evidence of title of the investment to the purchaser on 28779
receipt of written or electronic instructions from the authority 28780
or the authority's designated agent authorizing the sale, and 28781
pending receipt of the moneys for the investments. The amount 28782
received shall be placed in the custodial funds. The authority and 28783
the treasurer of state may enter into agreements to establish 28784
procedures for the purchase and sale of investments under this 28785
division and the custody of the investments. 28786

No purchase or sale of any investment shall be made under 28787
this section except as authorized by the authority. 28788

Any statement of financial position distributed by the 28789
authority shall include fair value, as of the statement date, of 28790
all investments held by the authority under this section. 28791

Sec. 3334.12. Notwithstanding anything to the contrary in 28792
sections 3334.07 and 3334.09 of the Revised Code: 28793

(A) Annually, the Ohio tuition trust authority shall have the 28794
actuarial soundness of the Ohio tuition trust fund evaluated by a 28795
nationally recognized actuary and shall determine whether 28796
additional assets are necessary to defray the obligations of the 28797
authority. If, after the authority sets the price for tuition 28798
~~credits~~ units, circumstances arise that the executive director 28799
determines necessitate an additional evaluation of the actuarial 28800
soundness of the fund, the executive director shall have a 28801
nationally recognized actuary conduct the necessary evaluation. If 28802
the assets of the fund are insufficient to ensure the actuarial 28803
soundness of the fund, the authority shall adjust the price of 28804
subsequent purchases of tuition ~~credits~~ units to the extent 28805
necessary to help restore the actuarial soundness of the fund. If, 28806
at any time, the adjustment is likely, in the opinion of the 28807
authority, to diminish the marketability of tuition ~~credits~~ units 28808
to an extent that the continued sale of the ~~credits~~ units likely 28809
would not restore the actuarial soundness of the fund and external 28810
economic factors continue to negatively impact the soundness of 28811
the program, the authority may suspend sales, either permanently 28812
or temporarily, of tuition ~~credits~~ units. During any suspension, 28813
the authority shall continue to service existing college savings 28814
program accounts. 28815

(B) Upon termination of the program or liquidation of the 28816
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 28817
the Ohio tuition trust operating fund, any remaining assets of the 28818
funds after all obligations of the funds have been satisfied 28819
pursuant to division (B) of section 3334.11 of the Revised Code 28820
shall be transferred to the general revenue fund of the state. 28821

(C) The authority shall prepare and cause to have audited an 28822
annual financial report on all financial activity of the Ohio 28823
tuition trust authority within ninety days of the end of the 28824
fiscal year. The authority shall transmit a copy of the audited 28825

financial report to the governor, the president of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives. Copies of the audited financial report also shall be made available, upon request, to the persons entering into contracts with the authority and to prospective purchasers of tuition ~~credits~~ units and prospective contributors to variable college savings program accounts.

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, a scholarship program, or a variable college savings program account shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other process of law.

(B) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, a scholarship program, or a variable college savings program account shall not be used as security or collateral for a loan.

Sec. 3334.16. The general assembly hereby finds that the prepaid tuition program providing for the sale of tuition credits units by the Ohio tuition trust authority is an official state function, offered through an agency of this state, which agency receives state appropriations. Therefore, the authority is directed by the state of Ohio to assume it is exempt from federal tax liability.

Sec. 3334.17. (A) The state, any political subdivision of the state, and any organization that is exempt from federal income taxation under section 501 (a) and described in section 501 (c)(3) of the Internal Revenue Code, including the Ohio tuition trust

authority if this is authorized under federal tax law, may 28856
establish a scholarship program to award scholarships consisting 28857
of contributions made to any college savings program for students. 28858
Any scholarship program established under this section shall be 28859
registered with the authority. The authority shall be notified of 28860
the name and address of each scholarship beneficiary under the 28861
program, the amounts awarded, and the institution of higher 28862
education in which the beneficiary is enrolled. Scholarship 28863
beneficiaries shall be selected by the entity establishing the 28864
scholarship program, in accordance with criteria established by 28865
the entity. 28866

(B) Any person or governmental entity may purchase tuition 28867
~~credits~~ units on behalf of a scholarship program that is or is to 28868
be established in accordance with division (A) of this section at 28869
the same price as is established for the purchase of ~~credits~~ units 28870
for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ 28871
units shall have the same value to the beneficiary of a 28872
scholarship awarded pursuant to this section as they would have to 28873
any other beneficiary pursuant to division (B) of section 3334.09 28874
of the Revised Code. 28875

(C) The entity establishing and maintaining a scholarship 28876
program shall specify whether a scholarship beneficiary may 28877
receive a refund or payment for the amount awarded under the 28878
scholarship program directly from the authority, or whether the 28879
amount awarded shall be paid by the authority only to the 28880
institution of higher education in which the student is enrolled. 28881

(D) If a scholarship beneficiary does not use the amount 28882
awarded within a length of time specified under the scholarship 28883
program, the amount may be awarded to another beneficiary. 28884

Sec. 3334.18. (A) A variable college savings program 28885
established by the Ohio tuition trust authority shall include 28886

provisions for a contract to be entered into between a contributor 28887
and the authority that will authorize the contributor to open an 28888
account for a beneficiary and authorize the contributor to 28889
substitute a new beneficiary for one originally named in the 28890
contract, to the extent permitted by section 529 of the Internal 28891
Revenue Code. 28892

(B) The authority shall provide adequate safeguards to 28893
prevent total contributions to a variable college savings program 28894
account or purchases of tuition ~~credits~~ units, either separately 28895
or combined, that are made on behalf of a beneficiary from 28896
exceeding the amount necessary to provide for the tuition and 28897
other higher education expenses of the beneficiary, consistent 28898
with the maximum contributions permitted by section 529 of the 28899
Internal Revenue Code. However, in no event shall contributions or 28900
purchases exceed the allowable limit for a qualified ~~state~~ tuition 28901
program under section 529 of the Internal Revenue Code. 28902

(C)(1) Participation in the variable college savings program 28903
does not guarantee that contributions and the investment return on 28904
contributions, if any, will be adequate to cover future tuition 28905
and other higher education expenses or that a beneficiary will be 28906
admitted to or permitted to continue to attend an institution of 28907
higher education. 28908

(2) Returns on contributors' investments in the variable 28909
college savings program are not guaranteed by the state and the 28910
contributors to the variable college savings program assume all 28911
investment risk, including the potential loss of principal and 28912
liability for penalties such as those levied for noneducational 28913
withdrawals. 28914

(3) The state shall have no debt or obligation to any 28915
contributor, beneficiary, or any other person as a result of the 28916
establishment of the program, and the state assumes no risk or 28917
liability for funds invested in the variable college savings 28918

program.	28919
(4) Informational materials about the variable college savings program prepared by the authority or its agents and provided to prospective contributors shall state clearly the information set forth in division (C) of this section.	28920 28921 28922 28923
Sec. 3334.19. (A) The Ohio tuition trust authority shall adopt an investment plan that sets forth investment policies and guidelines to be utilized in administering the variable college savings program. Except as provided in section 3334.20 of the Revised Code, the authority shall contract with one or more insurance companies, banks, or other financial institutions to act as its investment agents and to provide such services as the authority considers appropriate to the investment plan, including:	28924 28925 28926 28927 28928 28929 28930 28931
(1) Purchase, control, and safekeeping of assets;	28932
(2) Record keeping and accounting for individual accounts and for the program as a whole;	28933 28934
(3) Provision of consolidated statements of account.	28935
(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.	28936 28937 28938 28939 28940 28941 28942
(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.	28943 28944 28945 28946 28947
(D) Contributors shall not direct the investment of their	28948

contributions under the investment plan. The authority shall 28949
impose other limits on contributors' investment discretion to the 28950
extent required under section 529 of the Internal Revenue Code. 28951

(E) The investment agents with which the authority contracts 28952
shall discharge their duties with respect to program funds with 28953
the care and diligence that a prudent person familiar with such 28954
matters and with the character and aims of the program would use. 28955

(F) The assets of the program shall be preserved, invested, 28956
and expended solely for the purposes of this chapter and shall not 28957
be loaned or otherwise transferred or used by the state for any 28958
other purpose. This section shall not be construed to prohibit the 28959
investment agents of the authority from investing, by purchase or 28960
otherwise, in bonds, notes, or other obligations of the state or 28961
any agency or instrumentality of the state. Unless otherwise 28962
specified by the authority, assets of the program shall be 28963
expended in the following order of priority: 28964

(1) To make payments on behalf of beneficiaries; 28965

(2) To make refunds upon termination of variable college 28966
savings program contracts; 28967

(3) To pay the authority's costs of administering the 28968
program; 28969

(4) To pay or cover any other expenditure or disbursement the 28970
authority determines necessary or appropriate. 28971

(G) Fees, charges, and other costs imposed or collected by 28972
the authority in connection with the variable college savings 28973
program, including any fees or other payments that the authority 28974
requires an investment agent to pay to the authority, shall be 28975
credited to either the variable operating fund or the index 28976
operating fund at the discretion of the authority. ~~The fund shall~~ 28977
~~be~~ These funds are hereby created in the custody of the treasurer 28978

~~of state, but shall not be part of the state treasury. Expenses~~ 28979
~~incurred in the administration of the variable college savings~~ 28980
~~program, as well as other expenses, disbursements, or payments the~~ 28981
~~authority considers appropriate for the benefit of any college~~ 28982
~~savings programs administered by the authority, the state of Ohio~~ 28983
~~and its citizens, shall be paid from the variable operating fund~~ 28984
~~or the index operating fund at the discretion of the authority.~~ 28985

(H) No records of the authority indicating the identity of 28986
purchasers, contributors, and beneficiaries under the program or 28987
amounts contributed to, earned by, or distributed from program 28988
accounts are public records within the meaning of section 149.43 28989
of the Revised Code. 28990

Sec. 3345.02. (A) As used in this section: 28991

(1) "Academic year" and "full-time" enrollment have the 28992
meanings that the Ohio board of regents shall determine for 28993
purposes of this section. 28994

(2) "State institution of higher education" has the same 28995
meaning as in section 3345.011 of the Revised Code. 28996

(B) This section applies to the 2005-2006 academic year and 28997
to every academic year thereafter. 28998

(C) The board of trustees of each state institution of higher 28999
education shall limit increases in the combined in-state 29000
undergraduate instructional and general fees for an academic year 29001
over the amounts of such fees charged in the prior academic year 29002
to not more than the lesser of six per cent or, for a full-time 29003
student, five hundred dollars. 29004

(D) The limitations on fee increases prescribed in this 29005
section apply to an academic year even if, prior to the effective 29006
date of this section, a board of trustees has voted to increase 29007
fees beyond the amount permitted under this section. In such case, 29008

the board shall reduce the fees in an amount that results in 29009
combined in-state undergraduate instructional and general fees 29010
that comply with this section. 29011

(E) The limitations prescribed in this section do not apply 29012
to increases required to comply with institutional covenants 29013
related to obligations or to meet unfunded legal mandates, legally 29014
binding obligations, or commitments incurred prior to the 29015
effective date of this section with respect to which the board of 29016
trustees had identified such fee increases as the source of funds 29017
to meet those obligations, mandates, or commitments. An increase 29018
required by those obligations, mandates, or commitments shall be 29019
reported by the Ohio board of regents to the controlling board. 29020

(F) The board of regents may modify the limitations 29021
prescribed in this section with the approval of the controlling 29022
board in order to respond to exceptional circumstances identified 29023
by the board of regents. 29024

Sec. 3345.10. (A) As used in this section: 29025

(A), "Institution state institution of higher education" 29026
means a state university, municipal university, state medical 29027
college, community college, technical college, or state community 29028
college has the same meaning as in section 3345.011 of the Revised 29029
Code. 29030

(B) Each state institution of higher education shall 29031
establish competitive bidding procedures for the purchase of 29032
printed material and shall award all ~~such~~ contracts for the 29033
purchase of printed material in accordance with ~~such~~ those 29034
procedures. ~~Notwithstanding any other provision of law, The~~ 29035
procedures shall require the institution to evaluate all bids 29036
received for all contracts for the purchase of printed material 29037
shall be let by an institution to vendors who have manufacturing 29038

~~facilities within this state, except as provided in division (C) 29039
of this section. 29040~~

~~(C) If the required printed products are not available from a 29041
vendor who has manufacturing facilities within this state, the 29042
institution shall be permitted to purchase from an out of state 29043
vendor. 29044~~

~~(D) No vendor with manufacturing facilities within this state 29045
who would execute the printing covered by the proposal shall be 29046
prohibited from submitting a proposal for consideration and any 29047
such proposal properly submitted shall be considered in accordance 29048
with the criteria and procedures established pursuant to divisions 29049
(C)(1) and (2) of section 125.09 of the Revised Code for 29050
determining whether bidders will produce the printed material at 29051
manufacturing facilities within this state or in accordance with 29052
the criteria and procedures established pursuant to division 29053
(C)(4) or (5) of that section for determining whether bidders are 29054
otherwise qualified. 29055~~

~~An institution shall select, in accordance with the 29056
procedures it establishes under this section, a bid from among 29057
bidders that fulfill the criteria specified in the applicable 29058
divisions of section 125.09 of the Revised Code where sufficient 29059
competition can be generated within this state to ensure that 29060
compliance with this requirement will not result in paying an 29061
excessive price or acquiring a disproportionately inferior 29062
product. If there are two or more bids from among those bidders, 29063
it shall be deemed that there is sufficient competition to prevent 29064
paying an excessive price or acquiring a disproportionately 29065
inferior product. 29066~~

Sec. 3345.32. (A) As used in this section: 29067

(1) "State university or college" means the institutions 29068
described in section 3345.27 of the Revised Code, the northeastern 29069

Ohio universities college of medicine, and the medical university
of Ohio at Toledo. 29070
29071

(2) "Resident" has the meaning specified by rule of the Ohio
board of regents. 29072
29073

(3) "Statement of selective service status" means a statement
certifying one of the following: 29074
29075

(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; 29076
29077
29078
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(b) That the individual filing the statement is not required
to register with the selective service for one of the following
reasons: 29080
29081
29082

(i) The individual is under eighteen or over twenty-six years
of age; 29083
29084

(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; 29085
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(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; 29088
29089
29090

(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. 29091
29092
29093

(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. 29094
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(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The board of regents may require that such statements be accompanied by documentation specified by rule of the board.

(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who has not filed a statement of selective service status with the university or college shall, regardless of the student's residency, charge the student any tuition surcharge charged students who are not residents of this state.

(D) No male born after December 31, 1959, shall be eligible to receive any loan, grant, scholarship, or other financial assistance for educational expenses under section 3315.33, 3333.12, ~~3333.122~~, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code unless that person has filed a statement of selective service status with that person's institution of higher education.

(E) If an institution of higher education receives a statement from an individual certifying that the individual 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 or that the individual is exempt from registration 29132
for a reason other than that the individual is under eighteen 29133
years of age, the institution shall not require the individual to 29134
file any further statements. If it receives a statement certifying 29135
that the individual is not required to register because the 29136
individual is under eighteen years of age, the institution shall 29137
require the individual to file a new statement of selective 29138
service status each time the individual seeks to enroll for a new 29139
academic term or makes application for a new loan or loan 29140
guarantee or for any form of financial assistance for educational 29141
expenses, until it receives a statement certifying that the 29142
individual has registered with the selective service system or is 29143
exempt from registration for a reason other than that the 29144
individual is under eighteen years of age. 29145

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the~~ 29146
~~Revised Code~~ this chapter: 29147

(A) "Educational television or radio" means television or 29148
radio programs which serve the educational needs of the community 29149
and which meet the requirements of the federal communications 29150
commission for noncommercial educational television or radio. 29151

(B) "Educational telecommunications network" means a system 29152
of connected educational television, radio, or radio reading 29153
service facilities and coordinated programs established and 29154
operated or controlled by the eTech Ohio ~~educational~~ 29155
~~telecommunications network~~ commission, pursuant to ~~sections~~ 29156
~~3353.01 to 3353.04 of the Revised Code~~ this chapter. 29157

(C) "Transmission" means the sending out of television, 29158
radio, or radio reading service programs, either directly to the 29159
public, or to broadcasting stations or services for simultaneous 29160
broadcast or rebroadcast. 29161

(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 location or to several locations by means of telephone line, coaxial cable, microwave relays, or other available technologies.

(F) "Broadcasting station" means a properly licensed noncommercial educational television or radio station, appropriately staffed and equipped to produce programs or lessons and to broadcast programs.

(G) "Production center" means a television, radio, or radio reading service production studio, staffed and equipped with equipment, material, and supplies necessary to produce a program or a lesson for broadcast or for recording on film, video tape, or audio tape.

(H) "Radio reading service" means a nonprofit organization that disseminates news and other information to blind and physically handicapped persons.

(I) "Affiliate" means an educational telecommunication entity.

Sec. 3353.02. (A) There is hereby created the eTech Ohio commission as an independent agency to provide leadership and support in advancing the education of the citizens of this state through access to the use of technology. The commission shall administer programs to provide financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.

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

state. 29192

(B) The commission shall consist of eleven members, seven of 29193
whom shall be voting members. Four of the voting members shall be 29194
representatives of the public and shall be appointed by the 29195
governor. The superintendent of public instruction or a designee 29196
of the superintendent, the chancellor of the Ohio board of regents 29197
or a designee of the chancellor, and the director of 29198
administrative services or a designee of the director shall be ex 29199
officio voting members. Of the nonvoting members, two shall be 29200
members of the house of representatives appointed by the speaker 29201
of the house of representatives and two shall be members of the 29202
senate appointed by the president of the senate. The members 29203
appointed from each chamber shall not be members of the same 29204
political party. 29205

(C) Initial terms of office for members appointed by the 29206
governor shall be one year for one member, two years for one 29207
member, three years for one member, and four years for one member. 29208
At the first meeting of the commission, members appointed by the 29209
governor shall draw lots to determine the length of the term each 29210
member will serve. Thereafter, terms of office for members 29211
appointed by the governor shall be for four years. Any member 29212
appointed by the governor may be reappointed, but no such member 29213
may serve more than two consecutive four-year terms. Members 29214
appointed by the governor may be removed by the governor at any 29215
time. 29216

Any member appointed by the speaker of the house of 29217
representatives or the president of the senate who ceases to be a 29218
member of the legislative chamber from which the member was 29219
appointed shall cease to be a member of the commission. The 29220
speaker of the house of representatives and the president of the 29221
senate may remove their respective appointments to the commission 29222
at any time. 29223

(D) Vacancies among appointed members shall be filled in the 29224
manner provided for original appointments. Any member appointed by 29225
the governor to fill a vacancy occurring prior to the expiration 29226
of the term for which the member's predecessor was appointed shall 29227
hold office for the remainder of that term. Any member appointed 29228
by the governor shall continue in office subsequent to the 29229
expiration of that member's term until the member's successor 29230
takes office or until a period of sixty days has elapsed, 29231
whichever occurs first. 29232

(E) Members of the commission shall serve without 29233
compensation. The members appointed by the governor shall be 29234
reimbursed, pursuant to office of budget and management 29235
guidelines, for actual and necessary expenses incurred in the 29236
performance of official duties. 29237

(F) The governor shall appoint the chairperson of the 29238
commission from among the commission's voting members. The 29239
chairperson shall serve a term of two years and may be 29240
reappointed. The commission shall elect other officers as 29241
necessary from among its voting members and shall prescribe its 29242
rules of procedure. 29243

Sec. 3353.03. (A) The eTech Ohio commission shall appoint an 29244
executive director, who shall serve at the pleasure of the 29245
commission. The executive director shall have no authority other 29246
than that provided by law or delegated to the executive director 29247
by the commission. The executive director shall do all of the 29248
following: 29249

(1) Direct commission employees in the administration of all 29250
programs of the commission; 29251

(2) Provide leadership and support for advancing the 29252
education of the citizens of this state through access to the use 29253

<u>of technology, as directed by the commission;</u>	29254
<u>(3) Provide financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology;</u>	29255 29256 29257
<u>(4) Implement policies and directives issued by the commission;</u>	29258 29259
<u>(5) Perform other duties authorized by the commission.</u>	29260
<u>(B) The commission shall fix the compensation of the executive director. The executive director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of the executive director.</u>	29261 29262 29263 29264 29265
<u>(C) The employees of the commission shall be placed in the unclassified service. The employees shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.</u>	29266 29267 29268 29269
Sec. 3353.04. (A) The eTech Ohio educational telecommunications network commission may perform any act necessary to carry out the functions of this chapter, including any of the following:	29270 29271 29272 29273
<u>(A)(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;</u>	29274 29275 29276 29277 29278 29279
<u>(2) Establish a reporting system for school districts, community schools, other educational institutions, and affiliates that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in</u>	29280 29281 29282 29283

which the assistance was expended, the manner in which the 29284
equipment or services purchased with the assistance is being 29285
utilized, the results or outcome of the utilization, the manner in 29286
which the utilization is compatible with the statewide academic 29287
standards adopted by the state board of education pursuant to 29288
section 3301.079 of the Revised Code, and any other information 29289
determined by the commission. 29290

(3) Ensure that, where appropriate, products produced by the 29291
commission or by any entity to which the commission provides 29292
financial assistance for use in elementary and secondary education 29293
are aligned with the statewide academic standards adopted by the 29294
state board pursuant to section 3301.079 of the Revised Code; 29295

(4) Promote accessibility to educational products aligned 29296
with the statewide academic standards adopted by the state board 29297
pursuant to section 3301.079 of the Revised Code for school 29298
districts, community schools, and other entities serving grades 29299
kindergarten through twelve; 29300

(5) Own and operate transmission facilities and 29301
interconnection facilities, or contract for transmission 29302
facilities and interconnection facilities, for an educational 29303
television, radio, or radio reading service network; 29304

~~(B)~~(6) Establish standards for interconnection facilities 29305
used in the transmission of educational television, radio, or 29306
radio reading service programming by the commission; 29307

~~(C)~~(7) Enter into agreements with noncommercial educational 29308
television or radio broadcasting stations or radio reading 29309
services for the transmission to the broadcasting stations or 29310
services of identical programs for broadcasting either 29311
simultaneously or through the use of transcription discs, video 29312
tapes, film, or audio tapes; 29313

~~(D)~~(8) Enter into agreements with noncommercial educational 29314

television, radio, or radio reading service production centers and 29315
with broadcasting stations and radio reading services for the 29316
production and use of educational television, radio, or radio 29317
reading service programs to be transmitted by the educational 29318
telecommunications network; 29319

~~(E)~~(9) Execute contracts and other agreements necessary and 29320
desirable to carry out the purposes of ~~sections 3353.01 to 3353.04~~ 29321
~~of the Revised Code~~ this chapter and other duties prescribed to 29322
the commission by law or authorize the executive director of the 29323
commission to execute such contracts and agreements on the 29324
commission's behalf; 29325

~~(F)~~(10) Determine programs to be distributed through the Ohio 29326
educational telecommunications network; 29327

~~(G)~~(11) Act as consultant with educational television and 29328
educational radio stations and radio reading services toward 29329
coordination within the state of the distribution of federal funds 29330
that may become available for the development of educational 29331
broadcasting or radio reading services; 29332

~~(H)~~(12) Make payments to noncommercial Ohio educational 29333
television or radio broadcasting stations or radio reading 29334
services to sustain the operation of such stations or services, 29335
and may consign equipment to them in exchange for services 29336
rendered; 29337

(13) Establish guidelines governing purchasing and 29338
procurement by participants in programs administered by the 29339
commission that facilitate the timely and effective implementation 29340
of such programs; 29341

(14) Take into consideration the efficiency and cost savings 29342
of statewide procurement prior to allocating and releasing funds 29343
for any programs administered by the commission; 29344

(15) Establish a systems support network to facilitate the 29345

timely implementation of the programs, projects, and activities 29346
for which the commission provides assistance. 29347

(B) Chapters 123., 124., 125., and 153. of the Revised Code 29348
and sections 9.331, 9.332, and 9.333 of the Revised Code do not 29349
apply to contracts, programs, projects, or activities of the 29350
commission. 29351

Sec. 3353.06. (A) The affiliates services fund is hereby 29352
created in the state treasury. The eTech Ohio educational 29353
~~telecommunications network~~ commission shall deposit any money it 29354
receives for services provided to affiliates to the credit of the 29355
fund, including: 29356

(1) Reimbursements for services provided to stations; 29357

(2) Charges levied for maintenance of telecommunications, 29358
broadcasting, or transmission equipment; 29359

(3) Contract or grant payments from affiliates. 29360

(B) The commission shall use money credited to the affiliates 29361
services fund for any commission operating purposes, including: 29362

(1) The purchase, repair, or maintenance of 29363
telecommunications, broadcasting, or transmission equipment; 29364

(2) The purchase or lease of educational programming; 29365

(3) The purchase of tape and maintenance of a media library; 29366

(4) Professional development programs and services; 29367

(5) Administrative expenses ~~and legal fees.~~ 29368

Sec. 3353.07. (A) ~~As used in this section, "broadcasting~~ 29369
~~station" has the same meaning as in section 3353.01 of the Revised~~ 29370
~~Code.~~ 29371

~~(B)~~ Ohio government telecommunications shall be funded 29372

through the eTech Ohio ~~educational telecommunications network~~ 29373
commission and shall be managed by a broadcasting station under a 29374
contract. The contract shall not take effect until the program 29375
committee of Ohio government telecommunications approves the 29376
contract. The broadcasting station shall manage the staff of Ohio 29377
government telecommunications. 29378

~~(C)~~(B)(1) There is hereby created the program committee of 29379
Ohio government telecommunications that shall consist of the 29380
president of the senate, speaker of the house of representatives, 29381
minority leader of the senate, and minority leader of the house of 29382
representatives, or their designees. By a vote of a majority of 29383
its members, the program committee may add additional members to 29384
the committee. 29385

(2) The program committee shall adopt rules that govern the 29386
operation of Ohio government telecommunications and the coverage 29387
and distribution of official governmental activities by Ohio 29388
government telecommunications. 29389

Sec. 3354.25. (A) Notwithstanding section 3354.05 of the 29390
Revised Code regarding the residency of boards of trustees 29391
members, two members of the board of trustees of the Montgomery 29392
county community college district shall be residents of Warren 29393
county and shall have full voting rights on all matters coming 29394
before the board except those specified in division (B) of this 29395
section. These two members and their successors shall be appointed 29396
by the board of county commissioners of Warren county, and shall 29397
replace two Montgomery county members of the board as follows: 29398

(1) One member from Warren county shall succeed the first 29399
Montgomery county member appointed by the governor whose term ends 29400
after the effective date of this section. 29401

(2) One member from Warren county shall succeed the first 29402
Montgomery county member appointed by the board of county 29403

commissioners of Montgomery county whose term ends after the 29404
effective date of this section. 29405

Terms of office of the two Warren county positions otherwise 29406
shall follow the requirements regarding terms of office for 29407
members of boards of trustees of community college districts 29408
prescribed in section 3354.05 of the Revised Code. 29409

(B) The trustees from Warren county shall have no vote on any 29410
of the following matters: 29411

(1) Tax levies for Montgomery county; 29412

(2) The expenditure of revenue from levies described in 29413
division (B)(1) of this section; 29414

(3) Tuition for Montgomery county residents; 29415

(4) Community college facilities in Montgomery county; 29416

(5) Community college programs offered in Montgomery county. 29417

When a matter described in divisions (B)(1) to (5) of this 29418
section comes before the board, four Montgomery county trustees 29419
constitute a quorum. The concurrence of four Montgomery county 29420
trustees is necessary for approval of any matter described in 29421
divisions (B)(1) to (5) of this section. The fact that a trustee 29422
from Warren county votes on a matter described in divisions (B)(1) 29423
to (5) of this section does not invalidate the vote. 29424

(C) Warren county shall not be added to the Montgomery county 29425
community college district. The district, therefore, shall have no 29426
power to levy a tax in Warren county. Only the territory of the 29427
Montgomery county community college district as approved and 29428
certified by the Ohio board of regents under sections 3354.02 and 29429
3354.04 of the Revised Code shall be included in the Montgomery 29430
county community college district. However, the district may 29431
provide services in Warren county. 29432

(D) The board of trustees of the Montgomery county community 29433

college district shall continue to comply with division (G) of 29434
section 3354.09 of the Revised Code, regarding tuition for 29435
students who are residents of the district, for students who are 29436
residents of Ohio but not of the district, and for students who 29437
are nonresidents of Ohio. Students who are residents of Warren 29438
county shall continue to be charged tuition at the same rate as 29439
other Ohio residents who are not residents of Montgomery county. 29440

(E) Any money raised by the residents of Montgomery county 29441
through a tax levied by the Montgomery county community college 29442
district shall be used solely for the benefit of Montgomery county 29443
residents attending Sinclair community college, shall be deposited 29444
into a separate fund from all other revenues of the district, and 29445
shall be budgeted separately in accordance with division (B) of 29446
this section. 29447

Sec. 3362.02. The board of trustees of Shawnee state 29448
university shall annually elect from their members a ~~chairman~~ 29449
chairperson and ~~vice-chairman~~ vice-chairperson; and they may also 29450
appoint a secretary of the board, a treasurer, and such other 29451
officers of the university as the interests of the university 29452
require, who may be members of the board. The treasurer, before 29453
entering upon the discharge of ~~his~~ official duties, shall give 29454
bond to the state or be insured for the faithful performance of 29455
~~his~~ the treasurer's duties and the proper accounting for all 29456
moneys coming into ~~his~~ the treasurer's care. The amount of said 29457
bond or insurance shall be determined by the board, but shall not 29458
be for a sum less than the estimated amount which may come into 29459
the treasurer's sole control at any time, less any reasonable 29460
deductible. ~~Said bond shall be approved by the attorney general.~~ 29461

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the~~ 29462
~~Revised Code~~ this chapter: 29463

(A) "College" means any state-assisted college or university 29464
described in section 3333.041 of the Revised Code, any nonprofit 29465
institution holding a certificate of authorization pursuant to 29466
Chapter 1713. of the Revised Code, any private institution exempt 29467
from regulation under Chapter 3332. of the Revised Code as 29468
prescribed in section 3333.046 of the Revised Code, and any 29469
institution holding a certificate of registration from the state 29470
board of career colleges and schools and program authorization for 29471
an associate or bachelor's degree program issued under section 29472
3332.05 of the Revised Code. 29473

(B) "School district," except as specified in division (G) of 29474
this section, means any school district to which a student is 29475
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 29476
the Revised Code and does not include a joint vocational or 29477
cooperative education school district. 29478

(C) "Parent" has the same meaning as in section 3313.64 of 29479
the Revised Code. 29480

(D) "Participant" means a student enrolled in a college under 29481
the post-secondary enrollment options program established by this 29482
chapter. 29483

(E) "Secondary grade" means the ninth through twelfth grades. 29484

(F) "School foundation payments" means the amount required to 29485
be paid to a school district for a fiscal year under Chapter 3317. 29486
of the Revised Code. 29487

(G) "Tuition base" means, with respect to a participant's 29488
school district, the greater of the following: 29489

(1) The fiscal year 2005 formula amount defined in ~~division~~ 29490
~~(B)~~ of section 3317.02 of the Revised Code multiplied by the 29491
district's fiscal year 2005 cost-of-doing-business factor defined 29492
in ~~division (N) of that section 3317.02 of the Revised Code. The~~ 29493

(2) 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 (C)(1) to (4) of section 3317.012 of the Revised Code. 29494
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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. 29498
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(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. 29502
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(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. 29505
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(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June. 29509
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(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades. 29511
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(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. 29514
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Sec. 3365.02. There is hereby established the post-secondary enrollment options program under which a secondary grade student who is a resident of this state may enroll at a college, on a full- or part-time basis, and complete nonsectarian courses for high school and college credit. 29517
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Secondary grade students in a nonpublic school may participate in the post-secondary enrollment options program if 29522
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the chief administrator of such school notifies the department of 29524
education by the first day of April prior to the school year in 29525
which the school's students will participate. 29526

The state board of education, after consulting with the board 29527
of regents, shall adopt rules governing the program. The rules 29528
shall include: 29529

(A) Requirements for school districts, community schools, or 29530
participating nonpublic schools to provide information about the 29531
program prior to the first day of March of each year to all 29532
students enrolled in grades eight through eleven; 29533

(B) A requirement that a student or the student's parent 29534
inform the district board of education, the governing authority of 29535
a community school, or the nonpublic school administrator by the 29536
thirtieth day of March of the student's intent to participate in 29537
the program during the following school year. The rule shall 29538
provide that any student who fails to notify a district board, the 29539
governing authority of a community school, or the nonpublic school 29540
administrator by the required date may not participate in the 29541
program during the following school year without the written 29542
consent of the district superintendent, the governing authority of 29543
a community school, or the nonpublic school administrator. 29544

(C) Requirements that school districts and community schools 29545
provide counseling services to students in grades eight through 29546
eleven and to their parents before the students participate in the 29547
program under this chapter to ensure that students and parents are 29548
fully aware of the possible risks and consequences of 29549
participation. Counseling information shall include without 29550
limitation: 29551

(1) Program eligibility; 29552

(2) The process for granting academic credits; 29553

(3) Financial arrangements for tuition, books, materials, and fees;	29554 29555
(4) Criteria for any transportation aid;	29556
(5) Available support services;	29557
(6) Scheduling;	29558
(7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;	29559 29560 29561 29562
(8) The effect of program participation on the student's ability to complete the district's, community school's, or nonpublic school's graduation requirements;	29563 29564 29565
(9) The academic and social responsibilities of students and parents under the program;	29566 29567
(10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.	29568 29569 29570
(D) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program;	29571 29572 29573 29574 29575
(E) The options required by section 3365.04 of the Revised Code;	29576 29577
(F) A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses.	29578 29579 29580 29581 29582 29583

Section ~~Sec.~~ 3375.48. The judges of the court of common pleas 29584
of any county in which there is a A law library association which 29585
~~furnishes that receives fines and penalties, and moneys arising~~ 29586
~~from forfeited bail, under sections 3375.50 to 3375.53 of the~~ 29587
~~Revised Code shall furnish~~ to all of the members of the ~~Ohio~~ 29588
general assembly, the ~~county~~ officers of the county in which the 29589
association is located, and the judges of the ~~several~~ courts in 29590
~~the that~~ county admission to ~~its~~ the associations's law library 29591
and the use of its books, materials, and equipment free of charge, 29592
~~upon the appointment by the.~~ The association's board of trustees 29593
~~of such association of~~ may appoint a person to act as librarian 29594
thereof, or of a person to act as librarian and not more than two 29595
additional persons to act as assistant law librarians thereof, of 29596
the law library. The board shall ~~fix~~ be responsible for fixing and 29597
paying the compensation of ~~such~~ those persons, ~~which shall be paid~~ 29598
~~from the county treasury~~ subject to section 3375.49 of the Revised 29599
Code. 29600

Sec. 3375.49. ~~For~~ (A) Subject to divisions (B) and (C) of 29601
this section, for the use of the law library referred to in 29602
section 3375.48 of the Revised Code, the board of county 29603
commissioners shall provide, ~~at the expense of the county,~~ 29604
~~suitable rooms with sufficient and suitable bookcases~~ space in the 29605
county courthouse or, ~~if there are no suitable rooms in the~~ 29606
~~courthouse, any other suitable rooms~~ at in any other building 29607
located in the county seat ~~with sufficient,~~ and ~~suitable bookcases~~ 29608
utilities for that space. The 29609

(B)(1) Subject to division (C) of this section, through 29610
calendar year 2006, the board of county commissioners shall be 29611
responsible for paying the compensation of the librarian and up to 29612
two assistant librarians of the law library appointed by the board 29613
of trustees of the law library association under section 3375.48 29614

of the Revised Code and the costs of the space in the county 29615
courthouse or other building that the board provides for the use 29616
of the law library under division (A) of this section, the 29617
utilities for that space, and furniture and fixtures for the law 29618
library. 29619

(2) In calendar years 2007 through 2010, the board of county 29620
commissioners and the board of trustees shall be responsible for 29621
paying the compensation of the librarian and up to two assistant 29622
librarians appointed under section 3375.48 of the Revised Code and 29623
the costs of the space in the county courthouse or other building 29624
that the board of county commissioners provides for the use of the 29625
law library under division (A) of this section, the utilities for 29626
that space, and furniture and fixtures for the law library as 29627
follows: 29628

(a) In calendar year 2007, the board of county commissioners 29629
shall pay eighty per cent, and the board of trustees shall pay 29630
twenty per cent. 29631

(b) In calendar year 2008, the board of county commissioners 29632
shall pay sixty per cent, and the board of trustees shall pay 29633
forty per cent. 29634

(c) In calendar year 2009, the board of county commissioners 29635
shall pay forty per cent, and the board of trustees shall pay 29636
sixty per cent. 29637

(d) In calendar year 2010, the board of county commissioners 29638
shall pay twenty per cent, and the board of trustees shall pay 29639
eighty per cent. 29640

(3) Beginning in calendar year 2011 and thereafter, the board 29641
of trustees shall be responsible for paying the compensation of 29642
the librarian and all assistant librarians appointed under section 29643
3375.48 of the Revised Code as well as the costs of the space in 29644
the county courthouse or other building that the board of county 29645

commissioners provides for the use of the law library under 29646
division (A) of this section, the utilities for that space, and 29647
the law library's furniture and fixtures. 29648

(C) If the board of trustees of a law library association 29649
referred to in section 3375.48 of the Revised Code rents, leases, 29650
lease-purchases, or otherwise acquires space for the use of the 29651
law library, or constructs, enlarges, renovates, or otherwise 29652
modifies buildings or other structures to provide space for the 29653
use of the law library, the board of county commissioners of the 29654
county in which the association is located has no further 29655
obligation under division (A) of this section to provide space in 29656
the county courthouse or any other building located in the county 29657
seat for the use of the law library and utilities for that space, 29658
and has no further obligation under division (B) of this section 29659
to make payments for the compensation of the librarian and up to 29660
two assistant librarians of the law library appointed under 29661
section 3375.48 of the Revised Code and for the costs of space in 29662
the county courthouse or an other building for the use of the law 29663
library, the utilities for that space, and the law library's 29664
furniture and fixtures. 29665

(D) The librarian ~~or person in charge~~ of the law library 29666
shall receive and safely keep in ~~these rooms~~ the law library the 29667
law reports and other books furnished by the state for use of the 29668
court and bar. ~~The board of county commissioners shall heat and~~ 29669
~~light any such rooms. The~~ 29670

(E) The books, computer communications console that is a 29671
means of access to a system of computerized legal research, 29672
microform materials and equipment, videotape materials and 29673
equipment, audio or visual materials and equipment, other 29674
materials and equipment utilized in conducting legal research, ~~and~~ 29675
furniture, ~~and fixtures~~ of the law library association that are 29676
owned by, and used exclusively in, the law library are exempt from 29677

taxation. 29678

Sec. 3375.54. The money that is paid to the board of trustees 29679
of a law library association under sections 3375.50 to 3375.53 of 29680
the Revised Code shall be expended in the support and operation of 29681
the law library association ~~and~~; in the purchase, lease, or rental 29682
of lawbooks, a computer communications console that is a means of 29683
access to a system of computerized legal research, microform 29684
materials and equipment, videotape materials and equipment, audio 29685
or visual materials and equipment, ~~and other services, materials,~~ 29686
~~and equipment that provide legal information or facilitate~~ 29687
utilized in conducting legal research, furniture, and fixtures 29688
used in the association's law library; and to pay the compensation 29689
of any librarian and assistant librarians of the law library 29690
appointed under section 3375.48 of the Revised Code. 29691

Sec. 3375.55. ~~Judges of the county court in the county and~~ 29692
~~officers~~ Officers of the townships and municipal corporations 29693
~~therein~~ in a county in which a law library association that 29694
receives fines and penalties, and moneys arising from forfeited 29695
bail, under sections 3375.50 to 3375.53 of the Revised Code is 29696
located shall have the same free use of the books, materials, and 29697
equipment of the association's law library ~~receiving moneys under~~ 29698
~~sections 3375.50 to 3375.53, inclusive, of the Revised Code,~~ as 29699
general assembly members and the judges and county officers 29700
mentioned in section 3375.48 of the Revised Code. 29701

Sec. 3381.15. (A) The board of county commissioners of any 29702
county, the legislative authority of any municipal corporation, 29703
and the board of township trustees of any township, included 29704
within a regional arts and cultural district may appropriate 29705
annually, from moneys to the credit of the general fund of the 29706
county, the municipal corporation, or the township and not 29707

otherwise appropriated, that portion of the expense of the 29708
district to be paid by ~~such~~ the county, municipal corporation, or 29709
township as provided in the resolution creating or enlarging the 29710
district adopted under section 3381.03 of the Revised Code, or by 29711
any amendment ~~thereto~~ to the resolution. 29712

(B) In addition to the authority granted to a board of county 29713
commissioners under division (A) of this section, a board of 29714
county commissioners in a county with a population of five hundred 29715
thousand or more may establish and provide local funding options 29716
for the support of arts and cultural organizations operating 29717
within the regional arts and cultural district in which the county 29718
is included. 29719

Sec. 3383.02. (A) There is hereby created the Ohio cultural 29720
facilities commission. The commission shall engage in and provide 29721
for the development, performance, and presentation or making 29722
available of culture and professional sports and athletics to the 29723
public in this state, and the provision of training or education 29724
in culture, by the exercise of its powers under this chapter, 29725
including the provision, operation, management, and cooperative 29726
use of Ohio cultural facilities and Ohio sports facilities. The 29727
commission is a body corporate and politic, an agency of state 29728
government and an instrumentality of the state, performing 29729
essential governmental functions of this state. The carrying out 29730
of the purposes and the exercise by the commission of its powers 29731
conferred by this chapter are essential public functions and 29732
public purposes of the state and of state government. The 29733
commission may, in its own name, sue and be sued, enter into 29734
contracts, and perform all the powers and duties given to it by 29735
this chapter; however, it does not have and shall not exercise the 29736
power of eminent domain. 29737

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ 29738

nine of whom shall be voting members and three of whom shall be 29739
nonvoting members. The ~~seven~~ nine voting members shall be 29740
appointed by the governor, with the advice and consent of the 29741
senate, from different geographical regions of the state. In 29742
addition, one of the voting members shall represent the state 29743
architect. Not more than ~~four~~ five of the members appointed by the 29744
governor shall be affiliated with the same political party. The 29745
nonvoting members shall be the staff director of the Ohio arts 29746
council, a member of the senate appointed by the president of the 29747
senate, and a member of the house of representatives appointed by 29748
the speaker of the house. 29749

(C) Of the five initial appointments made by the governor, 29750
one shall be for a term expiring December 31, 1989, two shall be 29751
for terms expiring December 31, 1990, and two shall be for terms 29752
expiring December 31, 1991. Of the initial appointments of the 29753
sixth and seventh voting members made by the governor, one shall 29754
be for a term expiring December 31, 2003, and one shall be for a 29755
term expiring December 31, 2004. Of the initial appointments of 29756
the eighth and ninth voting members made by the governor, one 29757
shall be for a term expiring December 31, 2007, and one shall be 29758
for a term expiring December 31, 2008. These voting members shall 29759
be appointed within sixty days after the effective date of this 29760
amendment. Thereafter, each such term shall be for three years, 29761
commencing on the first day of January and ending on the 29762
thirty-first day of December. Each appointment by the president of 29763
the senate and by the speaker of the house of representatives 29764
shall be for the balance of the then legislative biennium. Each 29765
member shall hold office from the date of the member's appointment 29766
until the end of the term for which the member was appointed. Any 29767
member appointed to fill a vacancy occurring prior to the 29768
expiration of the term for which the member's predecessor was 29769
appointed shall hold office for the remainder of such term. Any 29770
member shall continue in office subsequent to the expiration date 29771

of the member's term until the member's successor takes office, or 29772
until a period of sixty days has elapsed, whichever occurs first. 29773

(D) Members of the commission shall serve without 29774
compensation. 29775

(E) Organizational meetings of the commission shall be held 29776
at the first meeting of each calendar year. At each organizational 29777
meeting, the commission shall elect from among its voting members 29778
a chairperson, a vice-chairperson, and a secretary-treasurer, who 29779
shall serve until the next annual meeting. The commission shall 29780
adopt rules pursuant to section 111.15 of the Revised Code for the 29781
conduct of its internal business and shall keep a journal of its 29782
proceedings. 29783

(F) ~~Four~~ Five voting members of the commission constitute a 29784
quorum, and the affirmative vote of ~~four~~ five members is necessary 29785
for approval of any action taken by the commission. A vacancy in 29786
the membership of the commission does not impair a quorum from 29787
exercising all the rights and performing all the duties of the 29788
commission. Meetings of the commission may be held anywhere in the 29789
state, and shall be held in compliance with section 121.22 of the 29790
Revised Code. 29791

(G) All expenses incurred in carrying out this chapter are 29792
payable solely from money accrued under this chapter or 29793
appropriated for these purposes by the general assembly, and the 29794
commission shall incur no liability or obligation beyond such 29795
money. 29796

(H) The commission shall file an annual report of its 29797
activities and finances with the governor, director of budget and 29798
management, speaker of the house of representatives, president of 29799
the senate, and chairpersons of the house and senate finance 29800
committees. 29801

(I) There is hereby established in the state treasury the 29802

Ohio cultural facilities commission administration fund. All 29803
revenues of the commission shall be credited to that fund and to 29804
any accounts created in ~~the~~ that fund with the commission's 29805
approval. All expenses of the commission, including reimbursement 29806
of, or payment to, any other fund or any governmental agency for 29807
advances made or services rendered to or on behalf of the 29808
commission, shall be paid from ~~the Ohio cultural facilities~~ 29809
~~commission administration~~ that fund as determined by or pursuant 29810
to directions of the commission. All investment earnings of ~~the~~ 29811
~~administration~~ that fund shall be credited to ~~the fund~~ it and 29812
shall be allocated among any accounts created in the fund in the 29813
manner determined by the commission. 29814

(J) Title to all real property and lesser interests in real 29815
property acquired by the commission, including leasehold and other 29816
interests, pursuant to this chapter shall be taken in the name of 29817
the state and shall be held for the use and benefit of the 29818
commission. The commission shall not mortgage such real property 29819
and interests in real property. Title to other property and 29820
interests in it acquired by the commission pursuant to this 29821
chapter shall be taken in its name. 29822

Sec. 3383.09. (A) There is hereby created in the state 29823
treasury the cultural and sports facilities building fund, which 29824
shall consist of proceeds of obligations authorized to pay costs 29825
of Ohio cultural facilities and Ohio sports facilities for which 29826
appropriations are made by the general assembly. All investment 29827
earnings of the fund shall be credited to the fund. 29828

(B) The director of budget and management may transfer, to 29829
the Ohio cultural facilities commission administration fund, 29830
investment earnings credited, or the premium paid on any bonds 29831
issued on behalf of the commission and credited, to the cultural 29832
and sports facilities building fund that exceed the amounts 29833

required to meet estimated federal arbitrage rebate requirements 29834
when requested of the director of budget and management by the 29835
chairperson or executive director of the commission. 29836

Sec. 3501.17. (A) The expenses of the board of elections 29837
shall be paid from the county treasury, in pursuance of 29838
appropriations by the board of county commissioners, in the same 29839
manner as other county expenses are paid. If the board of county 29840
commissioners fails to appropriate an amount sufficient to provide 29841
for the necessary and proper expenses of the board of elections 29842
pertaining to the conduct of elections, other than expenses for 29843
employee compensation and benefits incurred in the conduct of 29844
elections, ~~such~~ the board of elections may apply to the court of 29845
common pleas within the county, which shall fix the amount 29846
necessary to be appropriated, ~~and such that~~ amount shall be 29847
appropriated. Payments shall be made upon vouchers of the board of 29848
elections certified to by its chairperson or acting chairperson 29849
and the director or deputy director, upon warrants of the county 29850
auditor. The board of elections shall not incur any obligation 29851
involving the expenditure of money unless there are moneys 29852
sufficient in the funds appropriated therefor to meet ~~such~~ 29853
~~obligations~~ the obligation pursuant to division (D) of section 29854
5705.41 of the Revised Code, and the board may transfer funds only 29855
as provided under sections 5705.14 to 5705.16 of the Revised Code. 29856
~~Such~~ 29857

Those expenses shall be apportioned among the county and the 29858
various subdivisions as provided in this section, and the amount 29859
chargeable to each subdivision shall be withheld by the auditor 29860
from the moneys payable ~~thereto~~ to the subdivision at the time of 29861
the next tax settlement. At the time of submitting budget 29862
estimates in each year, the board of elections shall submit to the 29863
taxing authority of each subdivision, upon the request of the 29864
subdivision, an estimate of the amount to be withheld ~~therefrom~~ 29865

from the subdivision during the next fiscal year. 29866

(B) Except as otherwise provided in division (F) of this 29867
section, the entire compensation of the members of the board of 29868
elections and of the director, deputy director, and other 29869
employees in the board's offices; the expenditures for the rental, 29870
furnishing, and equipping of the office of the board and for the 29871
necessary office supplies for the use of the board; the 29872
expenditures for the acquisition, repair, care, and custody of the 29873
polling places, booths, guardrails, and other equipment for 29874
polling places; the cost of pollbooks, tally sheets, maps, flags, 29875
ballot boxes, and all other permanent records and equipment; the 29876
cost of all elections held in and for the state and county; and 29877
all other expenses of the board which are not chargeable to a 29878
political subdivision in accordance with this section shall be 29879
paid in the same manner as other county expenses are paid. 29880

(C) The compensation of judges and clerks of elections; the 29881
cost of renting, moving, heating, and lighting polling places and 29882
of placing and removing ballot boxes and other fixtures and 29883
equipment thereof; the cost of printing and delivering ballots, 29884
cards of instructions, and other election supplies; and all other 29885
expenses of conducting primaries and elections in the odd-numbered 29886
years shall be charged to the subdivisions in and for which such 29887
primaries or elections are held. The charge for each primary or 29888
general election in odd-numbered years for each subdivision shall 29889
be determined in the following manner: first, the total cost of 29890
all chargeable items used in conducting such elections shall be 29891
ascertained; second, the total charge shall be divided by the 29892
number of precincts participating in such election, in order to 29893
fix the cost per precinct; third, the cost per precinct shall be 29894
prorated by the board of elections to the subdivisions conducting 29895
elections for the nomination or election of offices in such 29896
precinct; fourth, the total cost for each subdivision shall be 29897

determined by adding the charges prorated to it in each precinct 29898
within the subdivision. 29899

(D) The entire cost of special elections held on a day other 29900
than the day of a primary or general election, both in 29901
odd-numbered or in even-numbered years, shall be charged to the 29902
subdivision. Where a special election is held on the same day as a 29903
primary or general election in an even-numbered year, the 29904
subdivision submitting the special election shall be charged only 29905
for the cost of ballots and advertising. Where a special election 29906
is held on the same day as a primary or general election in an 29907
odd-numbered year, the subdivision submitting the special election 29908
shall be charged for the cost of ballots and advertising for such 29909
special election, in addition to the charges prorated to such 29910
subdivision for the election or nomination of candidates in each 29911
precinct within the subdivision, as set forth in the preceding 29912
paragraph. 29913

(E) Where a special election is held on the day specified by 29914
division (E) of section 3501.01 of the Revised Code for the 29915
holding of a primary election, for the purpose of submitting to 29916
the voters of the state constitutional amendments proposed by the 29917
general assembly, and a subdivision conducts a special election on 29918
the same day, the entire cost of the special election shall be 29919
divided proportionally between the state and the subdivision based 29920
upon a ratio determined by the number of issues placed on the 29921
ballot by each, except as otherwise provided in division (G) of 29922
this section. Such proportional division of cost shall be made 29923
only to the extent funds are available for such purpose from 29924
amounts appropriated by the general assembly to the secretary of 29925
state. If a primary election is also being conducted in the 29926
subdivision, the costs shall be apportioned as otherwise provided 29927
in this section. 29928

(F) When a precinct is open during a general, primary, or 29929

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.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the public health council pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the

program may be submitted to the department on behalf of the child 29961
by parents, guardians, public health nurses, or any other 29962
interested person. The department of health may designate other 29963
agencies to refer applicants to the department of health. 29964

(B) In accordance with the procedures established in rules 29965
adopted under division (A)(4) of section 3701.021 of the Revised 29966
Code, the department of health shall authorize a provider or 29967
providers to provide to any Ohio resident under twenty-one years 29968
of age, without charge to the resident or the resident's family 29969
and without restriction as to the economic status of the resident 29970
or the resident's family, diagnostic services necessary to 29971
determine whether the resident ~~suffers from~~ has a medically 29972
handicapping or potentially medically handicapping condition. 29973

(C) The department of health shall review the applications of 29974
health professionals, hospitals, medical equipment suppliers, and 29975
other individuals, groups, or agencies that apply to become 29976
providers. The department shall enter into a written agreement 29977
with each applicant who is determined, pursuant to the 29978
requirements set forth in rules adopted under division (A)(2) of 29979
section 3701.021 of the Revised Code, to be eligible to be a 29980
provider in accordance with the provider agreement required by the 29981
medical assistance program established under section 5111.01 of 29982
the Revised Code. No provider shall charge a medically handicapped 29983
child or the child's parent or guardian for services authorized by 29984
the department under division (B) or (D) of this section. 29985

The department, in accordance with rules adopted under 29986
division (A)(3) of section 3701.021 of the Revised Code, may 29987
disqualify any provider from further participation in the program 29988
for violating any requirement set forth in rules adopted under 29989
division (A)(2) of that section. The disqualification shall not 29990
take effect until a written notice, specifying the requirement 29991
violated and describing the nature of the violation, has been 29992

delivered to the provider and the department has afforded the 29993
provider an opportunity to appeal the disqualification under 29994
division (H) of this section. 29995

(D) The department of health shall evaluate applications from 29996
city and general health districts and approved physician providers 29997
for authorization to provide treatment services, service 29998
coordination, and related goods to children determined to be 29999
eligible for the program for medically handicapped children 30000
pursuant to division (A) of this section. The department shall 30001
authorize necessary treatment services, service coordination, and 30002
related goods for each eligible child in accordance with an 30003
individual plan of treatment for the child. As an alternative, the 30004
department may authorize payment of health insurance premiums on 30005
behalf of eligible children when the department determines, in 30006
accordance with criteria set forth in rules adopted under division 30007
(A)(9) of section 3701.021 of the Revised Code, that payment of 30008
the premiums is cost-effective. 30009

(E) The department of health shall pay, from appropriations 30010
to the department, any necessary expenses, including but not 30011
limited to, expenses for diagnosis, treatment, service 30012
coordination, supportive services, transportation, and accessories 30013
and their upkeep, provided to medically handicapped children, 30014
provided that the provision of the goods or services is authorized 30015
by the department under division (B) or (D) of this section. Money 30016
appropriated to the department of health may also be expended for 30017
reasonable administrative costs incurred by the program. The 30018
department of health also may purchase liability insurance 30019
covering the provision of services under the program for medically 30020
handicapped children by physicians and other health care 30021
professionals. 30022

Payments made to providers by the department of health 30023
pursuant to this division for inpatient hospital care, outpatient 30024

care, and all other medical assistance furnished ~~by hospitals~~ to 30025
eligible recipients ~~shall be in accordance with methods~~ 30026
~~established by rules of the public health council. Until such~~ 30027
~~rules are adopted, the department of health shall make payments to~~ 30028
~~hospitals in accordance with reasonable cost principles for~~ 30029
~~reimbursement under the medicare program established under Title~~ 30030
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 30031
~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 30032
~~services other than inpatient or outpatient hospital care shall be~~ 30033
made in accordance with rules adopted by the public health council 30034
pursuant to division (A) of section 3701.021 of the Revised Code. 30035

The departments of health and job and family services shall 30036
jointly implement procedures to ensure that duplicate payments are 30037
not made under the program for medically handicapped children and 30038
the medical assistance program established under section 5111.01 30039
of the Revised Code and to identify and recover duplicate 30040
payments. 30041

(F)~~(1)~~ At the time of applying for participation in the 30042
program for medically handicapped children, a medically 30043
handicapped child or the child's parent or guardian shall disclose 30044
the identity of any third party against whom the child or the 30045
child's parent or guardian has or may have a right of recovery for 30046
goods and services provided under division (B) or (D) of this 30047
section. ~~Except as provided in division (F)(2) of this section,~~ 30048
~~the~~ The department of health shall require a medically handicapped 30049
child who receives services from the program or the child's parent 30050
or guardian to apply for all third-party benefits for which the 30051
child may be eligible and require the child, parent, or guardian 30052
to apply all third-party benefits received to the amount 30053
determined under division (E) of this section as the amount 30054
payable for goods and services authorized under division (B) or 30055
(D) of this section. The department is the payer of last resort 30056

and shall pay for authorized goods or services, up to the amount 30057
determined under division (E) of this section for the authorized 30058
goods or services, only to the extent that payment for the 30059
authorized goods or services is not made through third-party 30060
benefits. When a third party fails to act on an application or 30061
claim for benefits by a medically handicapped child or the child's 30062
parent or guardian, the department shall pay for the goods or 30063
services only after ninety days have elapsed since the date the 30064
child, parents, or guardians made an application or claim for all 30065
third-party benefits, ~~except as provided in division (F)(2) of~~ 30066
~~this section.~~ Third-party benefits received shall be applied to 30067
the amount determined under division (E) of this section. 30068
Third-party payments for goods and services not authorized under 30069
division (B) or (D) of this section shall not be applied to 30070
payment amounts determined under division (E) of this section. 30071
Payment made by the department shall be considered payment in full 30072
of the amount determined under division (E) of this section. 30073
Medicaid payments for persons eligible for the medical assistance 30074
program established under section 5111.01 of the Revised Code 30075
shall be considered payment in full of the amount determined under 30076
division (E) of this section. 30077

~~(2) A medically handicapped child or the parent or guardian 30078
of such a child is not required to apply for assistance under the 30079
medical assistance program established under section 5111.01 of 30080
the Revised Code as a condition for eligibility under the program 30081
for medically handicapped children if applying for or receiving 30082
assistance under the medical assistance program violates a 30083
religious belief of the child, parent, or guardian and a tenet of 30084
the child's, parent's, or guardian's religion. 30085~~

(G) The department of health shall administer a program to 30086
provide services to Ohio residents who are twenty-one or more 30087
years of age who ~~are suffering from~~ have cystic fibrosis and who 30088

meet the eligibility requirements established by the rules of the 30089
public health council pursuant to division (A)(7) of section 30090
3701.021 of the Revised Code, subject to all provisions of this 30091
section, but not subject to section 3701.024 of the Revised Code. 30092

(H) The department of health shall provide for appeals, in 30093
accordance with rules adopted under section 3701.021 of the 30094
Revised Code, of denials of applications for the program for 30095
medically handicapped children under division (A) or (D) of this 30096
section, disqualification of providers, or amounts paid under 30097
division (E) of this section. Appeals under this division are not 30098
subject to Chapter 119. of the Revised Code. 30099

The department may designate ombudspersons to assist 30100
medically handicapped children or their parents or guardians, upon 30101
the request of the children, parents, or guardians, in filing 30102
appeals under this division and to serve as children's, parents', 30103
or guardians' advocates in matters pertaining to the 30104
administration of the program for medically handicapped children 30105
and eligibility for program services. The ombudspersons shall 30106
receive no compensation but shall be reimbursed by the department, 30107
in accordance with rules of the office of budget and management, 30108
for their actual and necessary travel expenses incurred in the 30109
performance of their duties. 30110

(I) The department of health, and city and general health 30111
districts providing service coordination pursuant to division 30112
(A)(2) of section 3701.024 of the Revised Code, shall provide 30113
service coordination in accordance with the standards set forth in 30114
the rules adopted under section 3701.021 of the Revised Code, 30115
without charge, and without restriction as to economic status. 30116

Sec. 3701.073. (A) The department of health is hereby 30117
designated as the state agency responsible for administering the 30118
medicare rural hospital flexibility program, as established in 42 30119

U.S.C. 1395i-4, as amended. 30120

(B) The director of health shall designate as a critical access hospital a hospital registered as an acute care hospital with the department under section 3701.07 of the Revised Code if the hospital meets the following requirements: 30121
30122
30123
30124

(1) Has not more than twenty-five acute care and swing beds in use at any time for the furnishing of extended care or acute care inpatient services; 30125
30126
30127

(2) Has a length of stay not more than ninety-six hours per patient, on an annual average basis; 30128
30129

(3) Provides inpatient, outpatient, emergency, laboratory, radiology, and twenty-four hour emergency care services; 30130
30131

(4) Has network agreements in place for patient referral and transfer, a communication system for telemetry systems, electronic sharing of patient data, provision for emergency and non-emergency transportation, and assures credentialing and quality assurance; 30132
30133
30134
30135

(5) Was certified as a critical access hospital by the centers for medicare and medicaid services between January 1, 2001, and December 31, 2005, or is located in a rural area as identified below: 30136
30137
30138
30139

(a) An area within an Ohio metropolitan area designated as a rural area by the United States department of health and human services, office of rural health policy, in accordance with 42 C.F.R. 412.103 regarding rural urban commuting area codes four through ten in effect on the effective date of this section; 30140
30141
30142
30143
30144

(b) A non-metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments; 30145
30146
30147

(c) A rural zip code within a metropolitan county as 30148

designated in United States office of management and budget 30149
bulletin no. 93-17, June 30, 1993, and its attachments. 30150

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 30151
the director of health has all of the following duties and powers: 30152

~~(1) The director shall make payments to boards of county~~ 30153
~~commissioners in accordance with section 339.77 of the Revised~~ 30154
~~Code.~~ 30155

~~(2)~~ The director shall maintain registries of hospitals, 30156
clinics, physicians, or other care providers to whom the director 30157
shall refer persons who make inquiries to the department of health 30158
regarding possible exposure to tuberculosis. 30159

~~(3)~~(2) The director shall engage in tuberculosis surveillance 30160
activities, including the collection and analysis of 30161
epidemiological information relative to the frequency of 30162
tuberculosis infection, demographic and geographic distribution of 30163
tuberculosis cases, and trends pertaining to tuberculosis. 30164

~~(4)~~(3) The director shall maintain a tuberculosis registry to 30165
record the incidence of tuberculosis in this state. 30166

~~(5)~~(4) The director may appoint physicians to serve as 30167
tuberculosis consultants for geographic regions of the state 30168
specified by the director. Each tuberculosis consultant shall act 30169
in accordance with rules the director establishes and shall be 30170
responsible for advising and assisting physicians and other health 30171
care practitioners who participate in tuberculosis control 30172
activities and for reviewing medical records pertaining to the 30173
treatment provided to individuals with tuberculosis. 30174

(B)(1) The public health council shall adopt rules 30175
establishing standards for the following: 30176

(a) Performing tuberculosis screenings; 30177

(b) Performing examinations of individuals who have been 30178
exposed to tuberculosis and individuals who are suspected of 30179
having tuberculosis; 30180

(c) Providing treatment to individuals with tuberculosis; 30181

(d) Preventing individuals with communicable tuberculosis 30182
from infecting other individuals; 30183

(e) Performing laboratory tests for tuberculosis and studies 30184
of the resistance of tuberculosis to one or more drugs; 30185

(f) Selecting laboratories that provide in a timely fashion 30186
the results of a laboratory test for tuberculosis. The standards 30187
shall include a requirement that first consideration be given to 30188
laboratories located in this state. 30189

(2) Rules adopted pursuant to this section shall be adopted 30190
in accordance with Chapter 119. of the Revised Code and may be 30191
consistent with any recommendations or guidelines on tuberculosis 30192
issued by the United States centers for disease control and 30193
prevention or by the American thoracic society. The rules shall 30194
apply to county or district tuberculosis control units, physicians 30195
who examine and treat individuals for tuberculosis, and 30196
laboratories that perform tests for tuberculosis. 30197

Sec. 3701.65. (A) There is hereby created in the state 30198
treasury the "choose life" fund. The fund shall consist of the 30199
contributions that are paid to the registrar of motor vehicles by 30200
applicants who voluntarily elect to obtain "choose life" license 30201
plates pursuant to section 4503.91 of the Revised Code and any 30202
money returned to the fund under division (E)(1)(d) of this 30203
section. All investment earnings of the fund shall be credited to 30204
the fund. 30205

(B)(1) At least annually, the director of health shall 30206
distribute the money in the fund to any private, nonprofit 30207

organization that is eligible to receive funds under this section 30208
and that applies for funding under division (C) of this section. 30209

(2) The director shall distribute the funds based on the 30210
county in which the organization applying for funding is located 30211
and in proportion to the number of "choose life" license plates 30212
issued during the preceding year to vehicles registered in each 30213
county. Within each county, eligible organizations that apply for 30214
funding shall share equally in the funds available for 30215
distribution to organizations located within that county. 30216

(C) Any organization seeking funds under this section 30217
annually shall apply for distribution of the funds. The director 30218
shall develop an application form and may determine the schedule 30219
and procedures that an organization shall follow when annually 30220
applying for funds. The application shall inform the applicant of 30221
the conditions for receiving and using funds under division (E) of 30222
this section. The application shall require evidence that the 30223
organization meets all of the following requirements: 30224

(1) Is a private, nonprofit organization; 30225

(2) Is committed to counseling pregnant women about the 30226
option of adoption; 30227

(3) Provides services within the state to pregnant women who 30228
are planning to place their children for adoption, including 30229
counseling and meeting the material needs of the women; 30230

(4) Does not charge women for any services received; 30231

(5) Is not involved or associated with any abortion 30232
activities, including counseling for or referrals to abortion 30233
clinics, providing medical abortion-related procedures, or 30234
pro-abortion advertising; 30235

(6) Does not discriminate in its provision of any services on 30236
the basis of race, religion, color, age, marital status, national 30237

origin, handicap, gender, or age. 30238

(D) The director shall not distribute funds to an 30239
organization that does not provide verifiable evidence of the 30240
requirements specified in the application under division (C) of 30241
this section and shall not provide additional funds to any 30242
organization that fails to comply with division (E) of this 30243
section in regard to its previous receipt of funds under this 30244
section. 30245

(E)(1) An organization receiving funds under this section 30246
shall do all of the following: 30247

(a) Use not more than sixty per cent of the funds distributed 30248
to it for the material needs of pregnant women who are planning to 30249
place their children for adoption or for infants awaiting 30250
placement with adoptive parents, including clothing, housing, 30251
medical care, food, utilities, and transportation; 30252

(b) Use not more than forty per cent of the funds distributed 30253
to it for counseling, training, or advertising; 30254

(c) Not use any of the funds distributed to it for 30255
administrative expenses, legal expenses, or capital expenditures; 30256

(d) Annually return to the fund created under division (A) of 30257
this section any unused money that exceeds ten per cent of the 30258
money distributed to the organization. 30259

(2) The organization annually shall submit to the director an 30260
audited financial statement verifying its compliance with division 30261
(E)(1) of this section. 30262

(F) The director, in accordance with Chapter 119. of the 30263
Revised Code, shall adopt rules to implement this section. 30264

It is not the intent of the general assembly that the 30265
department create a new position within the department to 30266
implement and administer this section. It is the intent of the 30267

general assembly that the implementation and administration of 30268
this section be accomplished by existing department personnel. 30269

Sec. 3702.141. (A) As used in this section~~;~~: 30270

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 30271
health care facility that is licensed or otherwise approved to 30272
practice in this state, in accordance with applicable law, is 30273
staffed and equipped to provide health care services, and actively 30274
provides health services or has not been actively providing health 30275
services for less than twelve consecutive months. 30276

(2) "Health care facility" and "health service" have the same 30277
meaning meanings as in section 3702.51 of the Revised Code. 30278

(B) Section 3702.14 of the Revised Code shall not be 30279
construed to require any existing health care facility that is 30280
conducting an activity specified in section 3702.11 of the Revised 30281
Code, which activity was initiated on or before March 20, 1997, to 30282
alter, upgrade, or otherwise improve the structure or fixtures of 30283
the facility in order to comply with any rule adopted under 30284
section 3702.11 of the Revised Code relating to that activity, 30285
unless one of the following applies: 30286

(1) The facility initiates a construction, renovation, or 30287
reconstruction project that involves a capital expenditure of at 30288
least fifty thousand dollars, not including expenditures for 30289
equipment or staffing or operational costs, and that directly 30290
involves the area in which the existing service is conducted. 30291

(2) The facility initiates another activity specified in 30292
section 3702.11 of the Revised Code. 30293

(3) The facility initiates a service level designation change 30294
for obstetric and newborn care. 30295

(4) The facility proposes to add a cardiac catheterization 30296
laboratory to an existing cardiac catheterization service. 30297

(5) The facility proposes to add an open-heart operating room 30298
to an existing open-heart surgery service. 30299

(6) The director of health determines, by clear and 30300
convincing evidence, that failure to comply with the rule would 30301
create an imminent risk to the health and welfare of any patient. 30302

(C) If division (B)(4) or (5) of this section applies, any 30303
alteration, upgrade, or other improvement required shall apply 30304
only to the proposed addition to the existing service if the cost 30305
of the addition is less than the capital expenditure threshold set 30306
forth in division (B)(1) of this section. 30307

(D) No person or government entity shall divide or otherwise 30308
segment a construction, renovation, or reconstruction project in 30309
order to evade application of the capital expenditure threshold 30310
set forth in division (B)(1) of this section. 30311

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 30312
Revised Code: 30313

(A) "Applicant" means any person that submits an application 30314
for a certificate of need and who is designated in the application 30315
as the applicant. 30316

(B) "Person" means any individual, corporation, business 30317
trust, estate, firm, partnership, association, joint stock 30318
company, insurance company, government unit, or other entity. 30319

(C) "Certificate of need" means a written approval granted by 30320
the director of health to an applicant to authorize conducting a 30321
reviewable activity. 30322

(D) "Health service area" means a geographic region 30323
designated by the director of health under section 3702.58 of the 30324
Revised Code. 30325

(E) "Health service" means a clinically related service, such 30326

as a diagnostic, treatment, rehabilitative, or preventive service. 30327

(F) "Health service agency" means an agency designated to 30328
serve a health service area in accordance with section 3702.58 of 30329
the Revised Code. 30330

(G) "Health care facility" means: 30331

(1) A hospital registered under section 3701.07 of the 30332
Revised Code; 30333

(2) A nursing home licensed under section 3721.02 of the 30334
Revised Code, or by a political subdivision certified under 30335
section 3721.09 of the Revised Code; 30336

(3) A county home or a county nursing home as defined in 30337
section 5155.31 of the Revised Code that is certified under Title 30338
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 30339
U.S.C.A. 301, as amended; 30340

(4) A freestanding dialysis center; 30341

(5) A freestanding inpatient rehabilitation facility; 30342

(6) An ambulatory surgical facility; 30343

(7) A freestanding cardiac catheterization facility; 30344

(8) A freestanding birthing center; 30345

(9) A freestanding or mobile diagnostic imaging center; 30346

(10) A freestanding radiation therapy center. 30347

A health care facility does not include the offices of 30348
private physicians and dentists whether for individual or group 30349
practice, residential facilities licensed under section 5123.19 of 30350
the Revised Code, ~~or habilitation centers certified by the~~ 30351
~~director of mental retardation and developmental disabilities~~ 30352
~~under section 5123.041 of the Revised Code,~~ or an institution for 30353
the sick that is operated exclusively for patients who use 30354
spiritual means for healing and for whom the acceptance of medical 30355

care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means a either of the following:

(1) A health care facility that is licensed or otherwise approved authorized to practice operate in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and is actively provides providing health

~~services or has not been actively providing health services for 30387
less than twelve consecutive months; 30388~~

(2) A health care facility that is licensed or has beds 30389
registered under section 3701.07 of the Revised Code as skilled 30390
nursing beds or long-term care beds and has provided services for 30391
at least three hundred sixty-five consecutive days within the 30392
twenty-four months immediately preceding the date a certificate of 30393
need application is filed with the director of health. 30394

(M) "State" means the state of Ohio, including, but not 30395
limited to, the general assembly, the supreme court, the offices 30396
of all elected state officers, and all departments, boards, 30397
offices, commissions, agencies, institutions, and other 30398
instrumentalities of the state of Ohio. "State" does not include 30399
political subdivisions. 30400

(N) "Political subdivision" means a municipal corporation, 30401
township, county, school district, and all other bodies corporate 30402
and politic responsible for governmental activities only in 30403
geographic areas smaller than that of the state to which the 30404
sovereign immunity of the state attaches. 30405

(O) "Affected person" means: 30406

(1) An applicant for a certificate of need, including an 30407
applicant whose application was reviewed comparatively with the 30408
application in question; 30409

(2) The person that requested the reviewability ruling in 30410
question; 30411

(3) Any person that resides or regularly uses health care 30412
facilities within the geographic area served or to be served by 30413
the health care services that would be provided under the 30414
certificate of need or reviewability ruling in question; 30415

(4) Any health care facility that is located in the health 30416

service area where the health care services would be provided	30417
under the certificate of need or reviewability ruling in question;	30418
(5) Third-party payers that reimburse health care facilities	30419
for services in the health service area where the health care	30420
services would be provided under the certificate of need or	30421
reviewability ruling in question;	30422
(6) Any other person who testified at a public hearing held	30423
under division (B) of section 3702.52 of the Revised Code or	30424
submitted written comments in the course of review of the	30425
certificate of need application in question.	30426
(P) "Osteopathic hospital" means a hospital registered under	30427
section 3701.07 of the Revised Code that advocates osteopathic	30428
principles and the practice and perpetuation of osteopathic	30429
medicine by doing any of the following:	30430
(1) Maintaining a department or service of osteopathic	30431
medicine or a committee on the utilization of osteopathic	30432
principles and methods, under the supervision of an osteopathic	30433
physician;	30434
(2) Maintaining an active medical staff, the majority of	30435
which is comprised of osteopathic physicians;	30436
(3) Maintaining a medical staff executive committee that has	30437
osteopathic physicians as a majority of its members.	30438
(Q) "Ambulatory surgical facility" has the same meaning as in	30439
section 3702.30 of the Revised Code.	30440
(R) Except as otherwise provided in division (T) of this	30441
section, and until the termination date specified in section	30442
3702.511 of the Revised Code, "reviewable activity" means any of	30443
the following:	30444
(1) The addition by any person of any of the following health	30445
services, regardless of the amount of operating costs or capital	30446

expenditures:	30447
(a) A heart, heart-lung, lung, liver, kidney, bowel,	30448
pancreas, or bone marrow transplantation service, a stem cell	30449
harvesting and reinfusion service, or a service for	30450
transplantation of any other organ unless transplantation of the	30451
organ is designated by public health council rule not to be a	30452
reviewable activity;	30453
(b) A cardiac catheterization service;	30454
(c) An open-heart surgery service;	30455
(d) Any new, experimental medical technology that is	30456
designated by rule of the public health council.	30457
(2) The acceptance of high-risk patients, as defined in rules	30458
adopted under section 3702.57 of the Revised Code, by any cardiac	30459
catheterization service that was initiated without a certificate	30460
of need pursuant to division (R)(3)(b) of the version of this	30461
section in effect immediately prior to April 20, 1995;	30462
(3)(a) The establishment, development, or construction of a	30463
new health care facility other than a new long-term care facility	30464
or a new hospital;	30465
(b) The establishment, development, or construction of a new	30466
hospital or the relocation of an existing hospital;	30467
(c) The relocation of hospital beds, other than long-term	30468
care, perinatal, or pediatric intensive care beds, into or out of	30469
a rural area.	30470
(4)(a) The replacement of an existing hospital;	30471
(b) The replacement of an existing hospital obstetric or	30472
newborn care unit or freestanding birthing center.	30473
(5)(a) The renovation of a hospital that involves a capital	30474
expenditure, obligated on or after the effective date of this	30475

amendment <u>June 30, 1995</u> , of five million dollars or more, not	30476
including expenditures for equipment, staffing, or operational	30477
costs. For purposes of division (R)(5)(a) of this section, a	30478
capital expenditure is obligated:	30479
(i) When a contract enforceable under Ohio law is entered	30480
into for the construction, acquisition, lease, or financing of a	30481
capital asset;	30482
(ii) When the governing body of a hospital takes formal	30483
action to commit its own funds for a construction project	30484
undertaken by the hospital as its own contractor;	30485
(iii) In the case of donated property, on the date the gift	30486
is completed under applicable Ohio law.	30487
(b) The renovation of a hospital obstetric or newborn care	30488
unit or freestanding birthing center that involves a capital	30489
expenditure of five million dollars or more, not including	30490
expenditures for equipment, staffing, or operational costs.	30491
(6) Any change in the health care services, bed capacity, or	30492
site, or any other failure to conduct the reviewable activity in	30493
substantial accordance with the approved application for which a	30494
certificate of need was granted, if the change is made prior to	30495
the date the activity for which the certificate was issued ceases	30496
to be a reviewable activity;	30497
(7) Any of the following changes in perinatal bed capacity or	30498
pediatric intensive care bed capacity:	30499
(a) An increase in bed capacity;	30500
(b) A change in service or service-level designation of	30501
newborn care beds or obstetric beds in a hospital or freestanding	30502
birthing center, other than a change of service that is provided	30503
within the service-level designation of newborn care or obstetric	30504
beds as registered by the department of health;	30505

(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.

(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:	30536
(i) The greater of its fair market value or the cost of its lease or purchase;	30537 30538
(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.	30539 30540 30541
(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.	30542 30543
(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:	30544 30545 30546
(1) The establishment, development, or construction of a new long-term care facility;	30547 30548
(2) The replacement of an existing long-term care facility;	30549
(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;	30550 30551 30552 30553
(4) Any of the following changes in long-term care bed capacity:	30554 30555
(a) An increase in bed capacity;	30556
(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;	30557 30558 30559 30560
(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.	30561 30562 30563
(5) Any change in the health services, bed capacity, or site,	30564

or any other failure to conduct the reviewable activity in 30565
substantial accordance with the approved application for which a 30566
certificate of need concerning long-term care beds was granted, if 30567
the change is made within five years after the implementation of 30568
the reviewable activity for which the certificate was granted; 30569

(6) The expenditure of more than one hundred ten per cent of 30570
the maximum expenditure specified in a certificate of need 30571
concerning long-term care beds; 30572

(7) Any transfer of a certificate of need that concerns 30573
long-term care beds and was issued prior to April 20, 1995, from 30574
the person to whom it was issued to another person before the 30575
project that constitutes a reviewable activity is completed, any 30576
agreement that contemplates the transfer of such a certificate of 30577
need upon completion of the project, and any transfer of the 30578
controlling interest in an entity that holds such a certificate of 30579
need. However, the transfer of a certificate of need that concerns 30580
long-term care beds and was issued prior to April 20, 1995, or 30581
agreement to transfer such a certificate of need from the person 30582
to whom the certificate was issued to an affiliated or related 30583
person does not constitute a reviewable transfer of a certificate 30584
of need for purposes of this division, unless the transfer results 30585
in a change in the person that holds the ultimate controlling 30586
interest in the certificate of need. 30587

(T) "Reviewable activity" does not include any of the 30588
following activities: 30589

(1) Acquisition of computer hardware or software; 30590

(2) Acquisition of a telephone system; 30591

(3) Construction or acquisition of parking facilities; 30592

(4) Correction of cited deficiencies that are in violation of 30593
federal, state, or local fire, building, or safety laws and rules 30594

and that constitute an imminent threat to public health or safety; 30595

(5) Acquisition of an existing health care facility that does 30596
not involve a change in the number of the beds, by service, or in 30597
the number or type of health services; 30598

(6) Correction of cited deficiencies identified by 30599
accreditation surveys of the joint commission on accreditation of 30600
healthcare organizations or of the American osteopathic 30601
association; 30602

(7) Acquisition of medical equipment to replace the same or 30603
similar equipment for which a certificate of need has been issued 30604
if the replaced equipment is removed from service; 30605

(8) Mergers, consolidations, or other corporate 30606
reorganizations of health care facilities that do not involve a 30607
change in the number of beds, by service, or in the number or type 30608
of health services; 30609

(9) Construction, repair, or renovation of bathroom 30610
facilities; 30611

(10) Construction of laundry facilities, waste disposal 30612
facilities, dietary department projects, heating and air 30613
conditioning projects, administrative offices, and portions of 30614
medical office buildings used exclusively for physician services; 30615

(11) Acquisition of medical equipment to conduct research 30616
required by the United States food and drug administration or 30617
clinical trials sponsored by the national institute of health. Use 30618
of medical equipment that was acquired without a certificate of 30619
need under division (T)(11) of this section and for which 30620
premarket approval has been granted by the United States food and 30621
drug administration to provide services for which patients or 30622
reimbursement entities will be charged shall be a reviewable 30623
activity. 30624

(12) Removal of asbestos from a health care facility.	30625
Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.	30626 30627
(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.	30628 30629 30630 30631
(V) "Children's hospital" means any of the following:	30632
(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;	30633 30634 30635 30636 30637
(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;	30638 30639 30640 30641 30642 30643 30644
(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.	30645 30646 30647 30648
(W) "Long-term care facility" means any of the following:	30649
(1) 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;	30650 30651 30652
(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing	30653 30654

facility or a nursing facility under Title XVIII or XIX of the 30655
"Social Security Act"; 30656

(3) The portion of any hospital that contains beds registered 30657
under section 3701.07 of the Revised Code as skilled nursing beds 30658
or long-term care beds. 30659

(X) "Long-term care bed" means a bed in a long-term care 30660
facility. 30661

(Y) "Perinatal bed" means a bed in a hospital that is 30662
registered under section 3701.07 of the Revised Code as a newborn 30663
care bed or obstetric bed, or a bed in a freestanding birthing 30664
center. 30665

(Z) "Freestanding birthing center" means any facility in 30666
which deliveries routinely occur, regardless of whether the 30667
facility is located on the campus of another health care facility, 30668
and which is not licensed under Chapter 3711. of the Revised Code 30669
as a level one, two, or three maternity unit or a limited 30670
maternity unit. 30671

(AA)(1) "Reviewability ruling" means a ruling issued by the 30672
director of health under division (A) of section 3702.52 of the 30673
Revised Code as to whether a particular proposed project is or is 30674
not a reviewable activity. 30675

(2) "Nonreviewability ruling" means a ruling issued under 30676
that division that a particular proposed project is not a 30677
reviewable activity. 30678

(BB)(1) "Metropolitan statistical area" means an area of this 30679
state designated a metropolitan statistical area or primary 30680
metropolitan statistical area in United States office of 30681
management and budget bulletin No. 93-17, June 30, 1993, and its 30682
attachments. 30683

(2) "Rural area" means any area of this state not located 30684

within a metropolitan statistical area. 30685

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 30686
of the Revised Code, this section applies to the review of 30687
certificate of need applications during the period beginning July 30688
1, 1993, and ending June 30, ~~2005~~ 2007. 30689

As used in this section, "existing health care facility" has 30690
the same meaning as in section 3702.51 of the Revised Code. 30691

(B)(1) Except as provided in division (B)(2) of this section, 30692
the director of health shall neither grant nor deny any 30693
application for a certificate of need submitted prior to July 1, 30694
1993, if the application was for any of the following and the 30695
director had not issued a written decision concerning the 30696
application prior to that date: 30697

(a) Approval of beds in a new health care facility or an 30698
increase of beds in an existing health care facility, if the beds 30699
are proposed to be licensed as nursing home beds under Chapter 30700
3721. of the Revised Code; 30701

(b) Approval of beds in a new county home or new county 30702
nursing home as defined in section 5155.31 of the Revised Code, or 30703
an increase of beds in an existing county home or existing county 30704
nursing home, if the beds are proposed to be certified as skilled 30705
nursing facility beds under Title XVIII or nursing facility beds 30706
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 30707
42 U.S.C.A. 301, as amended; 30708

(c) Recategorization of hospital beds as described in section 30709
3702.522 of the Revised Code, an increase of hospital beds 30710
registered pursuant to section 3701.07 of the Revised Code as 30711
long-term care beds or skilled nursing facility beds, or a 30712
recategorization of hospital beds that would result in an increase 30713
of beds registered pursuant to that section as long-term care beds 30714

or skilled nursing facility beds. 30715

On July 1, 1993, the director shall return each such 30716
application to the applicant and, notwithstanding section 3702.52 30717
of the Revised Code regarding the uses of the certificate of need 30718
fund, shall refund to the applicant the application fee paid under 30719
that section. Applications returned under division (B)(1) of this 30720
section may be resubmitted in accordance with section 3702.52 of 30721
the Revised Code no sooner than July 1, ~~2005~~ 2007. 30722

(2) The director shall continue to review and shall issue a 30723
decision regarding any application submitted prior to July 1, 30724
1993, to increase beds for either of the purposes described in 30725
division (B)(1)(a) or (b) of this section if the proposed increase 30726
in beds is attributable solely to a replacement or relocation of 30727
existing beds within the same county. The director shall authorize 30728
under such an application no additional beds beyond those being 30729
replaced or relocated. 30730

(C)(1) Except as provided in division (C)(2) of this section, 30731
the director, during the period beginning July 1, 1993, and ending 30732
June 30, ~~2005~~ 2007, shall not accept for review under section 30733
3702.52 of the Revised Code any application for a certificate of 30734
need for any of the purposes described in divisions (B)(1)(a) to 30735
(c) of this section. 30736

(2)(a) The director shall accept for review any application 30737
for either of the purposes described in division (B)(1)(a) or (b) 30738
of this section if the proposed increase in beds is attributable 30739
solely to a replacement or relocation of existing beds from an 30740
existing health care facility within the same county. The director 30741
shall authorize under such an application no additional beds 30742
beyond those being replaced or relocated. ~~The~~ 30743

The director shall not approve an application for a 30744
certificate of need for addition of long-term care beds to an 30745

existing health care facility by relocation of beds or for the 30746
development of a new health care facility by relocation of beds 30747
unless all of the following conditions are met: 30748

(i) The existing health care facility to which the beds are 30749
being relocated has no life safety code waivers, no state fire 30750
code violations, and no state building code violations; 30751

(ii) During the sixty month period preceding the filing of 30752
the application, no notice of proposed revocation of the 30753
facility's license was issued under section 3721.03 of the Revised 30754
Code to the operator of the existing facility to which the beds 30755
are being relocated or to any health care facility owned or 30756
operated by the applicant or any principal participant in the same 30757
corporation or other business; 30758

(iii) Neither the existing health care facility to which the 30759
beds are being relocated nor any health care facility owned or 30760
operated by the applicant or any principal participant in the same 30761
corporation or other business has had a long-standing pattern of 30762
violations of this chapter or deficiencies that caused one or more 30763
residents physical, emotional, mental, or psychosocial harm. 30764

(b) The director also shall accept for review any application 30765
that seeks certificate of need approval for existing the 30766
conversion of infirmary beds located in an to long-term care beds 30767
if the infirmary that is meets all of the following conditions: 30768

(i) Is operated exclusively by a religious order, provides; 30769

(ii) Provides care exclusively to members of religious orders 30770
who take vows of celibacy and live by virtue of their vows within 30771
the orders as if related, and was; 30772

(iii) Was providing care exclusively to members of such a 30773
religious order on January 1, 1994. 30774

(D) The director shall issue a decision regarding any case 30775

remanded by a court as the result of a decision issued by the 30776
director prior to July 1, 1993, to grant, deny, or withdraw a 30777
certificate of need for any of the purposes described in divisions 30778
(B)(1)(a) to (c) of this section. 30779

(E) The director shall not project the need for beds listed 30780
in division (B)(1) of this section for the period beginning July 30781
1, 1993, and ending June 30, ~~2005~~ 2007. 30782

This section is an interim section effective until July 1, 30783
~~2005~~ 2007. 30784

Sec. 3702.71. As used in sections 3702.71 to 3702.81 of the 30785
Revised Code: 30786

(A) "Primary care physician" means an individual who is 30787
authorized under Chapter 4731. of the Revised Code to practice 30788
medicine and surgery or osteopathic medicine and surgery and is 30789
board certified or board eligible in a primary care specialty. 30790

(B) "Primary care service" means professional comprehensive 30791
personal health services, which may include health education and 30792
disease prevention, treatment of uncomplicated health problems, 30793
diagnosis of chronic health problems, ~~and~~ overall management of 30794
health care services for an individual or a family, and the 30795
services of a psychiatrist. "Primary care service" also includes 30796
providing the initial contact for health care services and making 30797
referrals for secondary and tertiary care and for continuity of 30798
health care services. 30799

(C) "Primary care specialty" means general internal medicine, 30800
pediatrics, obstetrics and gynecology, psychiatry, or family 30801
practice. 30802

Sec. 3702.74. (A) A primary care physician who has signed a 30803
letter of intent under section 3702.73 of the Revised Code, the 30804

director of health, and the Ohio board of regents may enter into a 30805
contract for the physician's participation in the physician loan 30806
repayment program. A lending institution may also be a party to 30807
the contract. 30808

(B) The contract shall include all of the following 30809
obligations: 30810

(1) The primary care physician agrees to provide primary care 30811
services in the health resource shortage area identified in the 30812
letter of intent for at least two years or one year per twenty 30813
thousand dollars of repayment agreed to under division (B)(3) of 30814
this section, whichever is greater; 30815

(2) When providing primary care services in the health 30816
resource shortage area, the primary care physician agrees to do 30817
all of the following: 30818

(a) Provide primary care services for a minimum of forty 30819
hours per week; 30820

(b) Provide primary care services without regard to a 30821
patient's ability to pay; 30822

(c) Meet the conditions prescribed by the "Social Security 30823
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 30824
department of job and family services for participation in the 30825
medical assistance program established under Chapter 5111. of the 30826
Revised Code and enter into a contract with the department to 30827
provide primary care services to recipients of the medical 30828
assistance program; 30829

~~(d) Meet the conditions established by the department of job 30830
and family services for participation in the disability medical 30831
assistance program established under Chapter 5115. of the Revised 30832
Code and enter into a contract with the department to provide 30833
primary care services to recipients of disability medical 30834
assistance. 30835~~

(3) The Ohio board of regents agrees, as provided in section 30836
3702.75 of the Revised Code, to repay, so long as the primary care 30837
physician performs the service obligation agreed to under division 30838
(B)(1) of this section, all or part of the principal and interest 30839
of a government or other educational loan taken by the primary 30840
care physician for expenses described in section 3702.75 of the 30841
Revised Code; 30842

(4) The primary care physician agrees to pay the board the 30843
following as damages if the physician fails to complete the 30844
service obligation agreed to under division (B)(1) of this 30845
section: 30846

(a) If the failure occurs during the first two years of the 30847
service obligation, three times the total amount the board has 30848
agreed to repay under division (B)(3) of this section; 30849

(b) If the failure occurs after the first two years of the 30850
service obligation, three times the amount the board is still 30851
obligated to repay under division (B)(3) of this section. 30852

(C) The contract may include any other terms agreed upon by 30853
the parties, including an assignment to the Ohio board of regents 30854
of the physician's duty to pay the principal and interest of a 30855
government or other educational loan taken by the physician for 30856
expenses described in section 3702.75 of the Revised Code. If the 30857
board assumes the physician's duty to pay a loan, the contract 30858
shall set forth the total amount of principal and interest to be 30859
paid, an amortization schedule, and the amount of each payment to 30860
be made under the schedule. 30861

Sec. 3702.83. The department of health shall administer a 30862
program, to be known as the J-1 visa waiver program, for 30863
recruiting physicians who received graduate medical education or 30864
training in the United States but are not citizens of the United 30865

States to serve in areas of the state designated by the United 30866
States secretary of health and human services as health 30867
professional shortage areas under the "Public Health Service Act," 30868
88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the 30869
program, the department of health shall accept and review 30870
applications for placement of persons seeking to remain in the 30871
United States pursuant to the "Immigration and Nationality Act," 30872
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, 30873
by obtaining a waiver of the federal requirement that they return 30874
to their home countries for a minimum of two years after 30875
completing the graduate medical education or training for which 30876
they were admitted to the United States. The department shall 30877
administer the program in accordance with the "Immigration and 30878
Nationality Act" and the regulations adopted under it. 30879

For each application accepted for review under this section, 30880
the department shall charge a fee of three thousand five hundred 30881
seventy-one dollars. The fee is nonrefundable. All fees collected 30882
shall be deposited into the state treasury to the credit of 30883
general operations fund created in section 3701.83 of the Revised 30884
Code. 30885

Sec. 3703.01. (A) The division of industrial compliance in 30886
the department of commerce shall: 30887

(1) Inspect all nonresidential buildings within the meaning 30888
of section 3781.06 of the Revised Code; 30889

(2) Condemn all unsanitary or defective plumbing that is 30890
found in connection with those places; 30891

(3) Order changes in plumbing necessary to insure the safety 30892
of the public health. 30893

(B)(1) The division of industrial compliance and boards of 30894
health of city and general health districts shall not inspect 30895

plumbing or collect fees for inspecting plumbing in particular 30896
types of buildings in any municipal corporation that has been 30897
certified by the board of building standards under section 3781.10 30898
of the Revised Code to exercise enforcement authority for plumbing 30899
in such types of buildings. 30900

(2) The division shall not inspect plumbing or collect fees 30901
for inspecting plumbing in particular types of buildings in any 30902
health district that has employed one or more approved plumbing 30903
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 30904
and the rules adopted pursuant to those chapters relating to 30905
plumbing in such types of buildings. 30906

(3) A municipal corporation does not have jurisdiction to 30907
inspect plumbing or collect fees for the inspection of plumbing in 30908
types of buildings for which it has not been certified by the 30909
board of building standards under section 3781.10 of the Revised 30910
Code to exercise enforcement authority. 30911

(4) A board of health of a health district does not have 30912
jurisdiction to inspect plumbing or collect fees for the 30913
inspection of plumbing in types of buildings for which it does not 30914
have an approved plumbing inspector. 30915

(C) The superintendent of industrial compliance shall adopt 30916
rules prescribing minimum qualifications based on education, 30917
training, experience, or demonstrated ability, which the ~~director~~ 30918
superintendent shall use in ~~approving certifying or recertifying~~ 30919
plumbing inspectors to do plumbing inspections for health 30920
districts and for continuing education of plumbing inspectors. 30921
Such minimum qualifications shall be related to the types of 30922
buildings for which a person seeks approval. 30923

(D) The superintendent may enter into reciprocal 30924
registration, licensure, or certification agreements with other 30925
states and other agencies of this state relative to plumbing 30926

inspectors if both of the following apply: 30927

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (C) of this section for certifying plumbing inspectors. 30928
30929
30930
30931
30932

(2) The other state or agency extends similar reciprocity to persons certified under this chapter. 30933
30934

(E) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors: 30935
30936
30937

(1) Prepare, administer, score, and maintain the confidentiality of the examination; 30938
30939

(2) Maintain responsibility for all expenses required to comply with division (E)(1) of this section; 30940
30941

(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes; 30942
30943

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing. 30944
30945
30946

(F) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters. 30947
30948
30949
30950

~~(E)~~(G) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health. 30951
30952
30953
30954

Sec. 3703.03. In the administration of sections 3703.01 to 30955

3703.09 of the Revised Code, the division of industrial compliance 30956
~~in the department of commerce~~ shall enforce rules governing 30957
plumbing adopted by the board of building standards under 30958
authority of sections 3781.10 and 3781.11 of the Revised Code, and 30959
register those persons engaged in or at the plumbing business. 30960

Plans and specifications for all plumbing to be installed in 30961
or for buildings coming within such sections shall be submitted to 30962
and approved by the division before the contract for plumbing is 30963
let. 30964

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ 30965
industrial compliance shall appoint such number of plumbing 30966
inspectors as is required. The inspectors shall be practical 30967
plumbers with at least seven years' experience, and skilled and 30968
well-trained in matters pertaining to sanitary regulations 30969
concerning plumbing work. 30970

~~No plumbing inspector employed by the department and assigned 30971
to the enforcement of this chapter shall be engaged or interested 30972
in the plumbing business or the sale of any plumbing supplies, nor 30973
shall the inspector act as agent, directly or indirectly, for any 30974
person so engaged.~~ 30975

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ 30976
division of ~~commerce~~ industrial compliance assigned to the 30977
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 30978
may, between sunrise and sunset, enter any building where there is 30979
good and sufficient reason to believe that the sanitary condition 30980
of the premises endangers the public health, for the purpose of 30981
making an inspection to ascertain the condition of the premises. 30982

Sec. 3703.06. When any building is found to be in a sanitary 30983
condition or when changes which are ordered, under authority of 30984
this chapter, in the plumbing, drainage, or ventilation have been 30985

made, and after a thorough inspection and approval by the ~~division~~ 30986
~~superintendent~~ of industrial compliance ~~in the department of~~ 30987
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 30988
~~signed by the superintendent of the division of industrial~~ 30989
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 30990
the benefit of the public at large. Upon notification by the 30991
superintendent, the certificate shall be revoked for any violation 30992
of those sections. 30993

Sec. 3703.07. No plumbing work shall be done in any building 30994
or place coming within the jurisdiction of the ~~department~~ division 30995
of ~~commerce~~ industrial compliance, except in cases of repairs or 30996
leaks in existing plumbing, until a permit has been issued by the 30997
~~department~~ division. 30998

Before granting such permit, an application shall be made by 30999
the owner of the property or by the person, firm, or corporation 31000
which is to do the work. The application shall be made on a form 31001
prepared by the ~~department~~ division for the purpose, and each 31002
application shall be accompanied by a fee of twenty-seven dollars, 31003
and an additional fee of seven dollars for each trap, vented 31004
fixture, appliance, or device. Each application also shall be 31005
accompanied by a plan approval fee of eighteen dollars for work 31006
containing one through twenty fixtures; thirty-six dollars for 31007
work containing twenty-one through forty fixtures; and fifty-four 31008
dollars for work containing forty-one or more fixtures. 31009

Whenever a reinspection is made necessary by the failure of 31010
the applicant or plumbing contractor to have the work ready for 31011
inspection when so reported, or by reason of faulty or improper 31012
installation, the person shall pay a fee of forty-five dollars for 31013
each reinspection. 31014

All fees collected pursuant to this section shall be paid 31015
into the state treasury to the credit of the industrial compliance 31016

operating fund created in section 121.084 of the Revised Code. 31017

The ~~director~~ superintendent of ~~commerce~~ industrial 31018
compliance, by rule adopted in accordance with Chapter 119. of the 31019
Revised Code, may increase the fees required by this section and 31020
may establish fees to pay the costs of the division to fulfill its 31021
duties established by this chapter, including, but not limited to, 31022
fees for administering a program for continuing education for, and 31023
certifying and recertifying plumbing inspectors. The fees shall 31024
bear some reasonable relationship to the cost of administering and 31025
enforcing the provisions of this chapter. 31026

Sec. 3703.08. Any owner, agent, or manager, of a building in 31027
which an inspection is made by the ~~department~~ division of ~~commerce~~ 31028
industrial compliance, a board of health of a health district, or 31029
a certified department of building inspection of a municipal 31030
corporation, shall have the entire system of drainage and 31031
ventilation repaired, as the ~~department of commerce~~ division, 31032
board of health, or department of building inspection directs by 31033
its order. After due notice to repair such work is given, the 31034
owner, agent, or manager shall notify the public authority that 31035
issued the order when the work is ready for its inspection. No 31036
person shall fail to have the work ready for inspection at the 31037
time specified in the notice. 31038

Sec. 3703.10. All prosecutions and proceedings by the 31039
~~department~~ division of ~~commerce~~ industrial compliance for the 31040
violation of sections 3703.01 to 3703.09 of the Revised Code, or 31041
for the violation of any of the orders or rules of the ~~department~~ 31042
division under those sections, shall be instituted by the ~~director~~ 31043
superintendent of ~~commerce~~ industrial compliance. All fines or 31044
judgments collected by the ~~department~~ division shall be paid into 31045
the state treasury to the credit of the industrial compliance 31046

operating fund created by section 121.084 of the Revised Code. 31047

The ~~director~~ superintendent, the board of health of a general 31048
or city health district, or any person charged with enforcing the 31049
rules of the ~~department~~ division adopted under sections 3703.01 to 31050
3703.09 of the Revised Code may petition the court of common pleas 31051
for injunctive or other appropriate relief requiring any person 31052
violating a rule adopted or order issued by the ~~director~~ 31053
superintendent under those sections to comply with the rule or 31054
order. The court of common pleas of the county in which the 31055
offense is alleged to be occurring may grant injunctive or other 31056
appropriate relief. 31057

The superintendent may do all of the following: 31058

(A) Deny an applicant certification as a plumbing inspector; 31059

(B) Suspend or revoke the certification of a plumbing 31060
inspector; 31061

(C) Examine any certified plumbing inspector under oath; 31062

(D) Examine the records and books of any certified plumbing 31063
inspector if the superintendent finds the material to be examined 31064
relevant to a determination described in division (A), (B), or (C) 31065
of this section. 31066

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of 31067
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 31068
industrial compliance is required to enforce under such sections, 31069
shall be fined not less than ten nor more than one hundred dollars 31070
or imprisoned for not less than ten nor more than ninety days, or 31071
both. No person shall be imprisoned under this section for the 31072
first offense, and the prosecution always shall be as for a first 31073
offense unless the affidavit upon which the prosecution is 31074
instituted contains the allegation that the offense is a second or 31075
repeated offense. 31076

Sec. 3704.035. There is hereby created in the state treasury 31077
the clean air fund. Except as otherwise provided in division (K) 31078
of section 3745.11 of the Revised Code, all moneys collected under 31079
divisions (C), (D), (F), (G), (H), (I), and (J) of that section 31080
and under section 3745.111 of the Revised Code, and any gifts, 31081
grants, or contributions received by the director of environmental 31082
protection for the purposes of the fund, shall be credited to the 31083
fund. The director shall expend moneys from the fund exclusively 31084
to pay the cost of administering and enforcing the laws of this 31085
state pertaining to the prevention, control, and abatement of air 31086
pollution and rules adopted and terms and conditions of permits, 31087
variances, and orders issued under those laws, except that the 31088
director shall not expend moneys credited to the fund for the 31089
administration and enforcement of motor vehicle inspection and 31090
maintenance programs and requirements under sections 3704.14, 31091
3704.141, 3704.16, 3704.161, and 3704.162, ~~and 3704.17~~ of the 31092
Revised Code. 31093

Specifically, the director shall expend all moneys credited 31094
to the fund from fees assessed under section 3745.11 of the 31095
Revised Code pursuant to the Title V permit program established 31096
under section 3704.036 of the Revised Code, and from any gifts, 31097
grants, or contributions received for the purposes of that 31098
program, solely to administer and enforce that program pursuant to 31099
the federal Clean Air Act, this chapter, and rules adopted under 31100
it, except as costs relating to enforcement are limited by the 31101
federal Clean Air Act. The director shall establish separate and 31102
distinct accounting for all such moneys. 31103

The director shall report biennially to the general assembly 31104
the amounts of fees and other moneys credited to the fund under 31105
this section and the amounts expended from it for each of the 31106
various air pollution control programs. 31107

Sec. 3704.14. (A) The director of environmental protection 31108
shall continue to implement an enhanced motor vehicle inspection 31109
and maintenance program in Cuyahoga, Geauga, Lake, Lorain, Medina, 31110
Portage, and Summit counties for a period of two years beginning 31111
on January 1, 2006, and ending on December 31, 2007 that is 31112
substantially similar to the enhanced program implemented in 31113
Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit 31114
counties under the contract that is scheduled to expire on 31115
December 31, 2005. The program, at a minimum, shall do all of the 31116
following: 31117

(1) Comply with the federal Clean Air Act; 31118

(2) Provide for the extension of a contract for a period of 31119
two years, beginning on January 1, 2006, and ending on December 31120
31, 2007, with the contractor who conducted the enhanced motor 31121
vehicle inspection and maintenance program in Cuyahoga, Geauga, 31122
Lake, Lorain, Medina, Portage, and Summit counties pursuant to a 31123
contract entered into under former section 3704.14 of the Revised 31124
Code as that section existed prior to its repeal and reenactment 31125
by Am. Sub. H.B. 66 of the 126th General Assembly; 31126

(3) Provide for the issuance of inspection certificates; 31127

(4) Provide for a new car exemption for motor vehicles four 31128
years old or newer and provide that a new motor vehicle is exempt 31129
for four years regardless of whether legal title to the motor 31130
vehicle is transferred during that period. 31131

(B) The director shall not implement a motor vehicle 31132
inspection and maintenance program in any county other than 31133
Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit 31134
counties. 31135

(C) The director shall adopt rules in accordance with Chapter 31136
119. of the Revised Code that the director determines are 31137

necessary to implement this section. The director may continue to 31138
implement and enforce rules pertaining to the enhanced motor 31139
vehicle inspection and maintenance program previously implemented 31140
under former section 3704.14 of the Revised Code as that section 31141
existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of 31142
the 126th general assembly, provided that the rules do not 31143
conflict with this section. 31144

(D) There is hereby created in the state treasury the motor 31145
vehicle inspection and maintenance fund, which shall consist of 31146
money received by the director from any fees for inspections that 31147
are established in rules adopted under this section. The director 31148
shall use money in the fund solely for the implementation, 31149
supervision, administration, operation, and enforcement of the 31150
enhanced motor vehicle inspection and maintenance program 31151
established under this section. 31152

(E) The enhanced motor vehicle inspection and maintenance 31153
program in Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and 31154
Summit counties expires on December 31, 2007, and shall not be 31155
continued beyond that date unless otherwise federally mandated. 31156

Sec. 3704.143. (A) As used in this section, "contract" means 31157
a contract entered into by the state under former section 3704.14 31158
of the Revised Code, as that section existed prior to its repeal 31159
and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, 31160
with a private contractor for the purpose of conducting emissions 31161
inspections under a motor vehicle inspection and maintenance 31162
program. 31163

(B) ~~Notwithstanding division (D)(5) of~~ Except as authorized 31164
in section 3704.14 of the Revised Code, ~~the director of~~ 31165
~~administrative services or~~ as that section was reenacted by Am. 31166
Sub. H.B. 66 of the 126th General Assembly, the director of 31167
environmental protection, ~~as applicable,~~ shall not renew any 31168

contract that is in existence on September 5, 2001. Further, 31169
~~except as authorized in that section,~~ the director of 31170
~~administrative services or the director of environmental~~ 31171
~~protection, as applicable,~~ shall not enter into a new contract 31172
upon the expiration or termination of any contract that is in 31173
existence on September 5, 2001, or enter into any new contract for 31174
the implementation of a motor vehicle inspection and maintenance 31175
program in a county in which such a program is not operating on 31176
that date. 31177

(C) ~~Notwithstanding~~ Except as authorized in section 3704.14 31178
of the Revised Code ~~or any other section of the Revised Code that~~ 31179
~~requires emissions inspections to be conducted or proof of such~~ 31180
~~inspections to be provided, as that section was reenacted by Am.~~ 31181
Sub. H.B. 66 of the 126th General Assembly, upon the expiration or 31182
termination of all contracts that are in existence on September 5, 31183
2001, the director of environmental protection shall terminate all 31184
motor vehicle inspection and maintenance programs in this state 31185
and shall not implement a new motor vehicle inspection and 31186
maintenance program unless ~~this section is repealed~~ and such a 31187
program is authorized by the general assembly. 31188

(D) ~~Notwithstanding section 3704.14 of the Revised Code or~~ 31189
~~any other section of the Revised Code that requires emissions~~ 31190
~~inspections to be conducted or proof of such inspections to be~~ 31191
~~provided, if~~ If the general assembly authorizes any program for 31192
the inspection of motor vehicle emissions under division (C) of 31193
this section after all contracts for a motor vehicle inspection 31194
and maintenance program that are in existence on September 5, 31195
2001, terminate or expire, a motor vehicle, the legal title to 31196
which has never been transferred by a manufacturer, distributor, 31197
or dealer to an ultimate purchaser as defined in section 4517.01 31198
of the Revised Code, shall be exempt from any emissions 31199
inspections that are required under such a program for a period of 31200

~~five not less than four~~ years commencing on the date when the 31201
first certificate of title to the vehicle was issued on behalf of 31202
the ultimate purchaser under Chapter 4503. of the Revised Code. A 31203
motor vehicle that is exempt from any emissions inspections ~~for a~~ 31204
~~period of five years~~ under this division shall remain exempt 31205
during that ~~five-year~~ period regardless of whether legal title to 31206
the motor vehicle is transferred during that period. 31207

Sec. 3704.144. Gifts, grants, and contributions for the 31208
purpose of adding pollution control equipment to diesel-powered 31209
school buses, including contributions that are made pursuant to 31210
the settlement of an administrative action or civil action that is 31211
brought at the request of the director of environmental protection 31212
pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the 31213
Revised Code, shall be credited to the clean diesel school bus 31214
fund, which is hereby created in the state treasury. The director 31215
shall use money credited to the fund to make grants to school 31216
districts in the state for the purpose of adding pollution control 31217
equipment to diesel-powered school buses and to pay the 31218
environmental protection agency's costs incurred in administering 31219
this section. In addition, the director may use money credited to 31220
the fund to make grants to school districts for the purpose of 31221
maintaining pollution control equipment that is installed on 31222
diesel-powered school buses and to pay the additional cost 31223
incurred by a school district for using ultra-low sulfur diesel 31224
fuel instead of diesel fuel for the operation of diesel-powered 31225
school buses. 31226

In making grants under this section, the director shall give 31227
priority to school districts that are located in a county that is 31228
designated as nonattainment by the United States environmental 31229
protection agency for the fine particulate national ambient air 31230
quality standard under the federal Clean Air Act. In addition, the 31231
director may give a higher priority to a school district that 31232

employs additional measures that reduce air pollution from the 31233
district's school bus fleet. 31234

The director shall adopt rules establishing procedures and 31235
requirements that are necessary to implement this section, 31236
including procedures and requirements governing applications for 31237
grants. 31238

Sec. 3704.99. (A) Whoever recklessly violates division (A), 31239
(B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or 31240
division (B)(5) of section 3704.16 of the Revised Code shall be 31241
fined not more than twenty-five thousand dollars or imprisoned not 31242
more than one year, or both, for each violation. Each day the 31243
violation continues after a conviction for a violation is a 31244
separate offense. 31245

(B) Whoever knowingly violates division (H), (J), or (K) of 31246
section 3704.05 of the Revised Code shall be fined not more than 31247
ten thousand dollars for each day of each such violation. 31248

(C) Whoever violates section 3704.15 ~~or division (B)(1) or~~ 31249
~~(2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is 31250
guilty of a misdemeanor of the first degree. 31251

(D) Whoever violates division (B)(2) or knowingly violates 31252
division (C)(1) of section 3704.16 of the Revised Code is guilty 31253
of a minor misdemeanor. 31254

(E) Whoever violates division (B)(1) or (3) or knowingly 31255
violates division (C)(2) or (3) of section 3704.16 of the Revised 31256
Code shall be fined not less than five hundred nor more than 31257
twenty-five hundred dollars for each day of each violation. 31258

(F) Whoever recklessly violates division (B)(4) of section 31259
3704.16 of the Revised Code shall be fined not more than 31260
twenty-five thousand dollars or imprisoned not more than one year, 31261
or both, for each violation. Each day the violation continues 31262

after a conviction for a violation is a separate offense. 31263

(G) The sentencing court, in addition to the penalty provided 31264
in divisions (D), (E), and (F) of this section, shall order the 31265
offender to restore within thirty days any emission control system 31266
that was tampered with in connection with the violation or to 31267
provide proof that the motor vehicle whose emission control system 31268
was tampered with has been dismantled or destroyed. The court may 31269
extend that deadline for good cause shown. If the offender does 31270
not take the corrective action ordered under this division, each 31271
day that the violation continues is a separate offense. Violation 31272
of a court order entered under this division is punishable as 31273
contempt under Chapter 2705. of the Revised Code. 31274

Sec. 3705.24. (A)(1) The public health council shall, in 31275
accordance with section 111.15 of the Revised Code, adopt rules 31276
prescribing fees for the following services provided by the state 31277
office of vital statistics: 31278

(a) Except as provided in division (A)(4) of this section: 31279

(i) A certified copy of a vital record or a certification of 31280
birth; 31281

(ii) A search by the office of vital statistics of its files 31282
and records pursuant to a request for information, regardless of 31283
whether a copy of a record is provided; 31284

(iii) A copy of a record provided pursuant to a request; 31285

(b) Replacement of a birth certificate following an adoption, 31286
legitimation, paternity determination or acknowledgement, or court 31287
order; 31288

(c) Filing of a delayed registration of a vital record; 31289

(d) Amendment of a vital record that is requested later than 31290
one year after the filing date of the vital record; 31291

(e) Any other documents or services for which the public health council considers the charging of a fee appropriate. 31292
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(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars. 31294
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(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any ~~fee~~ fees required by ~~section~~ sections 3109.14 and 3705.242 of the Revised Code. 31296
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(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code. 31299
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(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter. 31303
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(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the 31314
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department of health for copies of vital records or services in 31323
excess of the fees imposed by this section shall be dealt with as 31324
follows: 31325

(1) An overpayment of two dollars or less shall be retained 31326
by the department and deposited in the state treasury to the 31327
credit of the general operations fund created by section 3701.83 31328
of the Revised Code. 31329

(2) An overpayment in excess of two dollars shall be returned 31330
to the person who made the overpayment. 31331

(D) If a local registrar is a salaried employee of a city or 31332
a general health district, any fees the local registrar receives 31333
pursuant to section 3705.23 of the Revised Code shall be paid into 31334
the general fund of the city or the health fund of the general 31335
health district. 31336

Each local registrar of vital statistics, or each health 31337
district where the local registrar is a salaried employee of the 31338
district, shall be entitled to a fee for each birth, fetal death, 31339
death, or military service certificate properly and completely 31340
made out and registered with the local registrar or district and 31341
correctly copied and forwarded to the office of vital statistics 31342
in accordance with the population of the primary registration 31343
district at the last federal census. The fee for each birth, fetal 31344
death, death, or military service certificate shall be: 31345

(1) In primary registration districts of over two hundred 31346
fifty thousand, twenty cents; 31347

(2) In primary registration districts of over one hundred 31348
twenty-five thousand and less than two hundred fifty thousand, 31349
sixty cents; 31350

(3) In primary registration districts of over fifty thousand 31351
and less than one hundred twenty-five thousand, eighty cents; 31352

(4) In primary registration districts of less than fifty 31353
thousand, one dollar. 31354

(E) The director of health shall annually certify to the 31355
county treasurers of the several counties the number of birth, 31356
fetal death, death, and military service certificates registered 31357
from their respective counties with the names of the local 31358
registrars and the amounts due each registrar and health district 31359
at the rates fixed in this section. Such amounts shall be paid by 31360
the treasurer of the county in which the registration districts 31361
are located. No fees shall be charged or collected by registrars 31362
except as provided by this chapter and section 3109.14 of the 31363
Revised Code. 31364

(F) A probate judge shall be paid a fee of fifteen cents for 31365
each certified abstract of marriage prepared and forwarded by the 31366
probate judge to the department of health pursuant to section 31367
3705.21 of the Revised Code. The fee shall be in addition to the 31368
fee paid for a marriage license and shall be paid by the 31369
applicants for the license. 31370

(G) The clerk of a court of common pleas shall be paid a fee 31371
of one dollar for each certificate of divorce, dissolution, and 31372
annulment of marriage prepared and forwarded by the clerk to the 31373
department pursuant to section 3705.21 of the Revised Code. The 31374
fee for the certified abstract of divorce, dissolution, or 31375
annulment of marriage shall be added to the court costs allowed in 31376
these cases. 31377

(H) The fee for an heirloom certification of birth issued 31378
pursuant to division (B)(2) of section 3705.23 of the Revised Code 31379
shall be an amount prescribed by rule by the director of health 31380
plus any fee required by section 3109.14 of the Revised Code. In 31381
setting the amount of the fee, the director shall establish a 31382
surcharge in addition to an amount necessary to offset the expense 31383

of processing heirloom certifications of birth. The fee prescribed 31384
by the director of health pursuant to this division shall be 31385
deposited into the state treasury to the credit of the heirloom 31386
certification of birth fund which is hereby created. Money 31387
credited to the fund shall be used by the office of vital 31388
statistics to offset the expense of processing heirloom 31389
certifications of birth. However, the money collected for the 31390
surcharge, subject to the approval of the controlling board, shall 31391
be used for the purposes specified by the family and children 31392
first council pursuant to section 121.37 of the Revised Code. 31393

Sec. 3705.242. (A)(1) The director of health, a person 31394
authorized by the director, a local commissioner of health, or a 31395
local registrar of vital statistics shall charge and collect a fee 31396
of one dollar and fifty cents for each certified copy of a birth 31397
record, each certification of birth, and each copy of a death 31398
record. The fee is in addition to the fee imposed by section 31399
3705.24 or any other section of the Revised Code. A local 31400
commissioner of health or local registrar of vital statistics may 31401
retain an amount of each additional fee collected, not to exceed 31402
three per cent of the amount of the additional fee, to be used for 31403
costs directly related to the collection of the fee and the 31404
forwarding of the fee to the treasurer of state. 31405

(2) On the filing of a divorce decree under section 3105.10 31406
or a decree of dissolution under section 3105.65 of the Revised 31407
Code, a court of common pleas shall charge and collect a fee of 31408
five dollars and fifty cents. The fee is in addition to any other 31409
court costs or fees. The county clerk of courts may retain an 31410
amount of each additional fee collected, not to exceed three per 31411
cent of the amount of the additional fee, to be used for costs 31412
directly related to the collection of the fee and the forwarding 31413
of the fee to the treasurer of state. 31414

(B) The additional fees collected, but not retained, under this section during each month shall be forwarded not later than the tenth day of the immediately following month to the treasurer of state, who shall deposit the fees in the state treasury to the credit of the family violence prevention fund, which is hereby created. A person or government entity that fails to forward the fees in a timely manner, as determined by the treasurer of state, shall forward to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees. 31415
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The treasurer of state shall invest the moneys in the fund. All earnings resulting from investment of the fund shall be credited to the fund, except that actual administration costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year. The balance of the investment earnings shall be credited to the fund. 31424
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(C) The director of public safety shall use money credited to the fund to provide grants to family violence shelters in Ohio. 31432
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Sec. 3709.29. If the estimated amount of money necessary to meet the expenses of a general health district program will not be forthcoming to the board of health of ~~such~~ the district out of the district health fund because the taxes within the ten-mill limitation will be insufficient, the board of health shall certify ~~the fact of such~~ that there is an insufficiency of funds for the program to the board of county commissioners of the county in which ~~such~~ the district is located. ~~Such~~ The board of county commissioners is ~~hereby ordained~~ considered to be a special taxing authority for the purposes of this section only, and, notwithstanding any other law to the contrary, the board of county commissioners of any county in which a general health district is 31434
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located is the taxing authority for ~~such a~~ special levy under this 31446
section outside the ten-mill limitation. ~~The~~ 31447

Upon receipt of the board of health's certification, the 31448
board of county commissioners ~~shall thereupon~~, in the year 31449
preceding that in which ~~such~~ the general health district program 31450
will be effective, by vote of two-thirds of all the members of 31451
that body, shall declare by resolution that the amount of taxes 31452
~~which that~~ may be raised within the ten-mill limitation will be 31453
insufficient to provide an adequate amount for the necessary 31454
requirements of ~~such~~ the district within the county, and that it 31455
is necessary to levy a tax in excess of ~~such~~ the limitation in 31456
order to provide the board of health with sufficient funds to 31457
carry out ~~such health~~ the program, including its costs of office 31458
space and utilities. ~~Such~~ The resolution shall be filed with the 31459
board of elections not later than four p.m. of the seventy-fifth 31460
day before the day of the relevant primary or general election. 31461

~~Such resolution~~ and shall specify the amount of increase in 31462
rate ~~which that~~ it is necessary to levy and the number of years 31463
during which ~~such~~ the increase ~~shall~~ will be in effect, which 31464
shall not be for a longer period than ten years. The 31465

~~The~~ resolution shall conform to section 5705.191 of the 31466
Revised Code and be certified and submitted in the manner provided 31467
in section 5705.25 of the Revised Code, provided that the proposal 31468
shall be placed on the ballot at the next primary or general 31469
election occurring more than seventy-five days after the 31470
resolution is filed with the board of elections. 31471

Sec. 3709.34. (A) ~~The board of county commissioners or the~~ 31472
legislative authority of any city may furnish suitable quarters 31473
for any board of health or health department having jurisdiction 31474
over all or a major part of ~~such county or~~ that city. 31475

(B)(1) Subject to division (B)(6) of this section, through 31476

fiscal year 2006, the board of county commissioners shall provide 31477
office space and utilities for the board of health having 31478
jurisdiction over the county's general health district. 31479
Thereafter, subject to division (B)(6) of this section, the board 31480
of county commissioners shall make payments as provided in 31481
divisions (B)(2) and (3) of this section for the office space and 31482
utilities until fiscal year 2010. Starting in fiscal year 2010, 31483
the board has no duty to provide office space or utilities, or to 31484
make payments for office space or utilities, for the board of 31485
health of the county's general health district. 31486

(2)(a) Not later than the thirtieth day of September 2006, 31487
2007, and 2008, the board of county commissioners shall make a 31488
written estimate of the total cost for the ensuing fiscal year to 31489
provide office space and utilities to the board of health of the 31490
county's general health district. The estimate of total cost shall 31491
include all of the following: 31492

(i) The total square feet of space to be used by the board of 31493
health; 31494

(ii) The total square feet of any common areas that should be 31495
reasonably allocated to the board of health and the method for 31496
making this allocation; 31497

(iii) The actual cost per square foot for both the space used 31498
by and the common areas allocated to the board of health; 31499

(iv) An explanation of the method used to determine the 31500
actual cost per square foot; 31501

(v) The estimated cost of providing utilities, including an 31502
explanation of how this cost was determined; 31503

(vi) Any other estimated costs the board of county 31504
commissioners anticipates will be incurred to provide office space 31505
and utilities to the board of health, including a detailed 31506

explanation of those costs and the rationale used to determine 31507
them. 31508

(b) The board of county commissioners shall forward a copy of 31509
the estimate of total cost to the director of the board of health 31510
not later than the fifth day of October 2006, 2007, and 2008. The 31511
director shall review the estimate and notify the board of county 31512
commissioners not later than twenty days after its receipt of 31513
either agreement with it or any specific objections to it and the 31514
reasons for the objections. If the director agrees with the 31515
estimate, it shall become the final estimate of total cost. 31516
Failure of the director to make objections to the estimate by the 31517
twentieth day after its receipt shall be deemed to mean that the 31518
director is in agreement with the estimate. 31519

If the director timely provides specific objections to the 31520
board of county commissioners, the board shall review the 31521
objections and may modify the original estimate and send a revised 31522
estimate of total cost to the director within ten days after 31523
receipt of the objections. The director shall respond to a revised 31524
estimate within ten days after its receipt. If the director agrees 31525
with it, the revised estimate shall become the final estimate of 31526
total cost. If the director fails to respond within the ten-day 31527
period, the director shall be deemed to have agreed with the 31528
revised estimate. If the director disagrees with the revised 31529
estimate, the director shall send specific objections to the board 31530
of county commissioners within the ten-day period. 31531

(c) If the director sends specific objections to a revised 31532
estimate within the required time, or if there is no revised 31533
estimate and the director timely objected to the original 31534
estimate, the probate judge of the county shall determine the 31535
final estimate of total cost and certify this amount to the 31536
director and the board of county commissioners before the first 31537
day of January 2007, 2008, or 2009, as applicable. 31538

(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: 31539
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(i) Sixty per cent for fiscal year 2007; 31543

(ii) Forty per cent for fiscal year 2008; 31544

(iii) Twenty per cent for fiscal year 2009. 31545

(b) In fiscal years 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), or (iii) 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 final estimate of total cost. 31546
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(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. 31554
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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. 31558
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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 31565
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health district free of charge. 31569

(6) If the board of health of a general health district 31570
rents, leases, lease-purchases, or otherwise acquires office space 31571
to facilitate the performance of its functions, or constructs, 31572
enlarges, renovates, or otherwise modifies buildings or other 31573
structures to provide office space to facilitate the performance 31574
of its functions, the board of county commissioners of the county 31575
served by the general health district has no further obligation 31576
under division (B) of this section to provide office space or 31577
utilities, or to make payments for office space or utilities, for 31578
the board of health, unless the board of county commissioners 31579
enters into a contract under division (B)(4) of this section or 31580
exercises its option under division (B)(5) of this section. 31581

Sec. 3712.03. (A) In accordance with Chapter 119. of the 31582
Revised Code, the public health council shall adopt, and may amend 31583
and rescind, rules: 31584

(1) Providing for the licensing of persons or public agencies 31585
providing hospice care programs within this state by the 31586
department of health and for the suspension and revocation of 31587
licenses; 31588

(2) Establishing a license fee and license renewal fee not to 31589
exceed three hundred dollars. The fees shall cover the three-year 31590
period during which an existing license is valid as provided in 31591
division (B) of section 3712.04 of the Revised Code. 31592

(3) Establishing an inspection fee not to exceed one thousand 31593
seven hundred fifty dollars; 31594

(4) Establishing requirements for hospice care program 31595
facilities and services; 31596

~~(4)~~(5) Providing for a waiver of the requirement for the 31597
provision of physical, occupational, or speech or language therapy 31598

contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

~~(5)~~(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; and

~~(6)~~(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the amounts provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(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

(3) Implement and enforce this chapter and rules adopted under it.

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 31629
licensed under Chapter 3734. of the Revised Code a fee of thirty 31630
cents per cubic yard or sixty cents per ton, as applicable. 31631

(2) The owner or operator of a construction and demolition 31632
debris facility or a solid waste facility shall determine if cubic 31633
yards or tons will be used as the unit of measurement. In 31634
estimating the fee based on cubic yards, the owner or operator 31635
shall utilize either the maximum cubic yard capacity of the 31636
container, or the hauling volume of the vehicle, that transports 31637
the construction and demolition debris to the facility or the 31638
cubic yards actually logged for disposal by the owner or operator 31639
in accordance with rules adopted under section 3714.02 of the 31640
Revised Code. If basing the fee on tonnage, the owner or operator 31641
shall use certified scales to determine the tonnage of 31642
construction and demolition debris that is transported to the 31643
facility for disposal. 31644

(3) The owner or operator of a construction and demolition 31645
debris facility or a solid waste facility shall collect the fee 31646
levied under division (A) of this section as a trustee for the 31647
health district having jurisdiction over the facility, if that 31648
district is on the approved list under section 3714.09 of the 31649
Revised Code, or for the state. The owner or operator shall 31650
prepare and file with the appropriate board of health or the 31651
director of environmental protection monthly returns indicating 31652
the total volume or weight, as applicable, of construction and 31653
demolition debris received for disposal at the facility and the 31654
total amount of money required to be collected on the construction 31655
and demolition debris disposed of during that month. Not later 31656
than thirty days after the last day of the month to which the 31657
return applies, the owner or operator shall mail to the board of 31658
health or the director the return for that month together with the 31659
money required to be collected on the construction and demolition 31660

debris disposed of during that month. The owner or operator may
request, in writing, an extension of not more than thirty days
after the last day of the month to which the return applies. A
request for extension may be denied. If the owner or operator
submits the money late, the owner or operator shall pay a penalty
of ten per cent of the amount of the money due for each month that
it is late.

(4) Of the money that is collected from a construction and
demolition debris facility or a solid waste facility on a per
cubic yard or per ton basis under this section, a board of health
shall transmit three cents per cubic yard or six cents per ton, as
applicable, to the director not later than forty-five days after
the receipt of the money. The money retained by a board of health
under this section shall be paid into a special fund, which is
hereby created in each health district, and used solely to
administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the
boards of health of health districts under this section and all
money from the disposal fee collected by the director under this
section to the treasurer of state to be credited to the
construction and demolition debris facility oversight fund, which
is hereby created in the state treasury. The fund shall be
administered by the director, and money credited to the fund shall
be used exclusively for the administration and enforcement of this
chapter and rules adopted under it.

(B) The board of health of a health district or the director
may enter into an agreement with the owner or operator of a
construction and demolition debris facility or a solid waste
facility for the quarterly payment of the money collected from the
disposal fee. The board of health shall notify the director of any
such agreement. Not later than forty-five days after receipt of
the quarterly payment, the board of health shall transmit the

amount established in division (A)~~(5)~~(4) of this section to the 31693
director. The money retained by the board of health shall be 31694
deposited in the special fund of the district as required under 31695
that division. Upon receipt of the money from a board of health, 31696
the director shall transmit the money to the treasurer of state to 31697
be credited to the construction and demolition debris facility 31698
oversight fund. 31699

(C) If a construction and demolition debris facility or a 31700
solid waste facility is located within the territorial boundaries 31701
of a municipal corporation or the unincorporated area of a 31702
township, the municipal corporation or township may appropriate up 31703
to four cents per cubic yard or up to eight cents per ton of the 31704
disposal fee required to be paid by the facility under division 31705
(A) of this section for the same purposes that a municipal 31706
corporation or township may levy a fee under division (C) of 31707
section 3734.57 of the Revised Code. 31708

The legislative authority of the municipal corporation or 31709
township may appropriate the money from the fee by enacting an 31710
ordinance or adopting a resolution establishing the amount of the 31711
fee to be appropriated. Upon doing so, the legislative authority 31712
shall mail a certified copy of the ordinance or resolution to the 31713
board of health of the health district in which the construction 31714
and demolition debris facility or the solid waste facility is 31715
located or, if the facility is located in a health district that 31716
is not on the approved list under section 3714.09 of the Revised 31717
Code, to the director. Upon receipt of the copy of the ordinance 31718
or resolution and not later than forty-five days after receipt of 31719
money collected from the fee, the board or the director, as 31720
applicable, shall transmit to the treasurer or other appropriate 31721
officer of the municipal corporation or clerk of the township that 31722
portion of the money collected from the disposal fee by the owner 31723
or operator of the facility that is required by the ordinance or 31724

resolution to be paid to that municipal corporation or township. 31725

Money received by the treasurer or other appropriate officer 31726
of a municipal corporation under this division shall be paid into 31727
the general fund of the municipal corporation. Money received by 31728
the clerk of a township under this division shall be paid into the 31729
general fund of the township. The treasurer or other officer of 31730
the municipal corporation or the clerk of the township, as 31731
appropriate, shall maintain separate records of the money received 31732
under this division. 31733

The legislative authority of a municipal corporation or 31734
township may cease collecting money under this division by 31735
repealing the ordinance or resolution that was enacted or adopted 31736
under this division. 31737

(D) The board of county commissioners of a county in which a 31738
construction and demolition debris facility or a solid waste 31739
facility is located may appropriate up to three cents per cubic 31740
yard or up to six cents per ton of the disposal fee required to be 31741
paid by the facility under division (A) of this section for the 31742
same purposes that a solid waste management district may levy a 31743
fee under division (B) of section 3734.57 of the Revised Code. 31744

The board of county commissioners may appropriate the money 31745
from the fee by adopting a resolution establishing the amount of 31746
the fee to be appropriated. Upon doing so, the board of county 31747
commissioners shall mail a certified copy of the resolution to the 31748
board of health of the health district in which the construction 31749
and demolition debris facility or the solid waste facility is 31750
located or, if the facility is located in a health district that 31751
is not on the approved list under section 3714.09 of the Revised 31752
Code, to the director. Upon receipt of the copy of the resolution 31753
and not later than forty-five days after receipt of money 31754
collected from the fee, the board of health or the director, as 31755

applicable, shall transmit to the treasurer of the county that 31756
portion of the money collected from the disposal fee by the owner 31757
or operator of the facility that is required by the resolution to 31758
be paid to that county. 31759

Money received by a county treasurer under this division 31760
shall be paid into the general fund of the county. The county 31761
treasurer shall maintain separate records of the money received 31762
under this division. 31763

A board of county commissioners may cease collecting money 31764
under this division by repealing the resolution that was adopted 31765
under this division. 31766

(E)(1) This section does not apply to the disposal of 31767
construction and demolition debris at a solid waste facility that 31768
is licensed under Chapter 3734. of the Revised Code if there is no 31769
construction and demolition debris facility licensed under this 31770
chapter within ~~forty~~ thirty-five miles of the solid waste facility 31771
as determined by a facility's property boundaries. 31772

(2) This section does not apply to the disposal of 31773
construction and demolition debris at a solid waste facility that 31774
is licensed under Chapter 3734. of the Revised Code if the owner 31775
or operator of the facility chooses to collect fees on the 31776
disposal of the construction and demolition debris that are 31777
identical to the fees that are collected under Chapters 343. and 31778
3734. of the Revised Code on the disposal of solid wastes at that 31779
facility. 31780

(3) This section does not apply to the disposal of source 31781
separated materials that are exclusively composed of reinforced or 31782
nonreinforced concrete, asphalt, clay tile, building or paving 31783
brick, or building or paving stone at a construction and 31784
demolition debris facility that is licensed under this chapter 31785
when either of the following applies: 31786

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code. 31787
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(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade. 31794
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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 the following fees: 31802
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(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code; 31809
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(2) A fee of thirty seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section 31814
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1502.02 of the Revised Code.

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(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 fees levied under this section and remit the money from the fees 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.

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(C) 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 shall be transmitted by the board or director to the treasurer of state to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

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Sec. 3715.04. (A) As used in this section:

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(1) "Certificate of health and freesale" means a document issued by the director of agriculture that certifies to states and countries receiving products that the products have been produced and warehoused in this state under sanitary conditions at a food processing establishment or at a place of business of a manufacturer of over-the-counter drugs or cosmetics, as applicable, that has been inspected by the department of agriculture. Other names of documents that are synonymous with "certificate of health and freesale" include, but are not limited to, "sanitary certificate of health and freesale"; "certificate of origin"; "certificate of freesale"; "certificate of health and origin"; "certificate of freesale, sanitary and purity"; and "certificate of freesale, health and origin."

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(2) "Food processing establishment" has the same meaning as in section 3715.021 of the Revised Code.

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(B) Upon the request of a food processing establishment, 31848
manufacturer of over-the-counter drugs, or manufacturer of 31849
cosmetics, the director may issue a certificate of health and 31850
freesale after determining that conditions at the establishment or 31851
place of business of the manufacturer, as applicable, have been 31852
found to be sanitary through an inspection conducted pursuant to 31853
this chapter. For each certificate issued, the director shall 31854
charge the establishment or manufacturer a fee in the amount of 31855
twenty dollars. The director shall deposit all fees collected 31856
under this section to the credit of the food safety fund created 31857
in section 915.24 of the Revised Code. 31858

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 31859
3721.99 of the Revised Code: 31860

(1)(a) "Home" means an institution, residence, or facility 31861
that provides, for a period of more than twenty-four hours, 31862
whether for a consideration or not, accommodations to three or 31863
more unrelated individuals who are dependent upon the services of 31864
others, including a nursing home, residential care facility, home 31865
for the aging, and a veterans' home operated under Chapter 5907. 31866
of the Revised Code. 31867

(b) "Home" also means both of the following: 31868

(i) Any facility that a person, as defined in section 3702.51 31869
of the Revised Code, proposes for certification as a skilled 31870
nursing facility or nursing facility under Title XVIII or XIX of 31871
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 31872
as amended, and for which a certificate of need, other than a 31873
certificate to recategorize hospital beds as described in section 31874
3702.522 of the Revised Code or division (R)(7)(d) of the version 31875
of section 3702.51 of the Revised Code in effect immediately prior 31876
to April 20, 1995, has been granted to the person under sections 31877
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 31878

(ii) A county home or district home that is or has been licensed as a residential care facility.	31879 31880
(c) "Home" does not mean any of the following:	31881
(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;	31882 31883 31884
(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;	31885 31886
(iii) A residential facility as defined in section 5123.19 of the Revised Code;	31887 31888
(iv) A habilitation center as defined in section 5123.041 of the Revised Code;	31889 31890
(v) A community alternative home as defined in section 3724.01 of the Revised Code;	31891 31892
(vi) <u>(v)</u> An adult care facility as defined in section 3722.01 of the Revised Code;	31893 31894
(vii) <u>(vi)</u> An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;	31895 31896
(viii) <u>(vii)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	31897 31898
(ix) <u>(viii)</u> A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;	31899 31900 31901
(x) <u>(ix)</u> 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;	31902 31903 31904
(xi) <u>(x)</u> A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by	31905 31906 31907

virtue of their vows within the orders as if related, and does not 31908
participate in the medicare program established under Title XVIII 31909
of the "Social Security Act" or the medical assistance program 31910
established under Chapter 5111. of the Revised Code and Title XIX 31911
of the "Social Security Act," if on January 1, 1994, the facility, 31912
infirmary, or entity was providing care exclusively to members of 31913
the religious order; 31914

~~(xii)~~(xi) A county home or district home that has never been 31915
licensed as a residential care facility. 31916

(2) "Unrelated individual" means one who is not related to 31917
the owner or operator of a home or to the spouse of the owner or 31918
operator as a parent, grandparent, child, grandchild, brother, 31919
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 31920
uncle. 31921

(3) "Mental impairment" does not mean mental illness as 31922
defined in section 5122.01 of the Revised Code or mental 31923
retardation as defined in section 5123.01 of the Revised Code. 31924

(4) "Skilled nursing care" means procedures that require 31925
technical skills and knowledge beyond those the untrained person 31926
possesses and that are commonly employed in providing for the 31927
physical, mental, and emotional needs of the ill or otherwise 31928
incapacitated. "Skilled nursing care" includes, but is not limited 31929
to, the following: 31930

(a) Irrigations, catheterizations, application of dressings, 31931
and supervision of special diets; 31932

(b) Objective observation of changes in the patient's 31933
condition as a means of analyzing and determining the nursing care 31934
required and the need for further medical diagnosis and treatment; 31935

(c) Special procedures contributing to rehabilitation; 31936

(d) Administration of medication by any method ordered by a 31937

physician, such as hypodermically, rectally, or orally, including 31938
observation of the patient after receipt of the medication; 31939

(e) Carrying out other treatments prescribed by the physician 31940
that involve a similar level of complexity and skill in 31941
administration. 31942

(5)(a) "Personal care services" means services including, but 31943
not limited to, the following: 31944

(i) Assisting residents with activities of daily living; 31945

(ii) Assisting residents with self-administration of 31946
medication, in accordance with rules adopted under section 3721.04 31947
of the Revised Code; 31948

(iii) Preparing special diets, other than complex therapeutic 31949
diets, for residents pursuant to the instructions of a physician 31950
or a licensed dietitian, in accordance with rules adopted under 31951
section 3721.04 of the Revised Code. 31952

(b) "Personal care services" does not include "skilled 31953
nursing care" as defined in division (A)(4) of this section. A 31954
facility need not provide more than one of the services listed in 31955
division (A)(5)(a) of this section to be considered to be 31956
providing personal care services. 31957

(6) "Nursing home" means a home used for the reception and 31958
care of individuals who by reason of illness or physical or mental 31959
impairment require skilled nursing care and of individuals who 31960
require personal care services but not skilled nursing care. A 31961
nursing home is licensed to provide personal care services and 31962
skilled nursing care. 31963

(7) "Residential care facility" means a home that provides 31964
either of the following: 31965

(a) Accommodations for seventeen or more unrelated 31966
individuals and supervision and personal care services for three 31967

or more of those individuals who are dependent on the services of 31968
others by reason of age or physical or mental impairment; 31969

(b) Accommodations for three or more unrelated individuals, 31970
supervision and personal care services for at least three of those 31971
individuals who are dependent on the services of others by reason 31972
of age or physical or mental impairment, and, to at least one of 31973
those individuals, any of the skilled nursing care authorized by 31974
section 3721.011 of the Revised Code. 31975

(8) "Home for the aging" means a home that provides services 31976
as a residential care facility and a nursing home, except that the 31977
home provides its services only to individuals who are dependent 31978
on the services of others by reason of both age and physical or 31979
mental impairment. 31980

The part or unit of a home for the aging that provides 31981
services only as a residential care facility is licensed as a 31982
residential care facility. The part or unit that may provide 31983
skilled nursing care beyond the extent authorized by section 31984
3721.011 of the Revised Code is licensed as a nursing home. 31985

(9) "County home" and "district home" mean a county home or 31986
district home operated under Chapter 5155. of the Revised Code. 31987

(B) The public health council may further classify homes. For 31988
the purposes of this chapter, any residence, institution, hotel, 31989
congregate housing project, or similar facility that meets the 31990
definition of a home under this section is such a home regardless 31991
of how the facility holds itself out to the public. 31992

(C) For purposes of this chapter, personal care services or 31993
skilled nursing care shall be considered to be provided by a 31994
facility if they are provided by a person employed by or 31995
associated with the facility or by another person pursuant to an 31996
agreement to which neither the resident who receives the services 31997
nor the resident's sponsor is a party. 31998

(D) Nothing in division (A)(4) of this section shall be 31999
construed to permit skilled nursing care to be imposed on an 32000
individual who does not require skilled nursing care. 32001

Nothing in division (A)(5) of this section shall be construed 32002
to permit personal care services to be imposed on an individual 32003
who is capable of performing the activity in question without 32004
assistance. 32005

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not 32006
prohibit a facility, infirmary, or other entity described in that 32007
division from seeking licensure under sections 3721.01 to 3721.09 32008
of the Revised Code or certification under Title XVIII or XIX of 32009
the "Social Security Act." However, such a facility, infirmary, or 32010
entity that applies for licensure or certification must meet the 32011
requirements of those sections or titles and the rules adopted 32012
under them and obtain a certificate of need from the director of 32013
health under section 3702.52 of the Revised Code. 32014

(F) Nothing in this chapter, or rules adopted pursuant to it, 32015
shall be construed as authorizing the supervision, regulation, or 32016
control of the spiritual care or treatment of residents or 32017
patients in any home who rely upon treatment by prayer or 32018
spiritual means in accordance with the creed or tenets of any 32019
recognized church or religious denomination. 32020

Sec. 3721.011. (A) In addition to providing accommodations, 32021
supervision, and personal care services to its residents, a 32022
residential care facility may provide skilled nursing care as 32023
follows: 32024

(1) Supervision of special diets; 32025

(2) Application of dressings, in accordance with rules 32026
adopted under section 3721.04 of the Revised Code; 32027

(3) Providing for the administration of medication to 32028

residents, to the extent authorized under division (B)(1) of this section; 32029
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(4) Other skilled nursing care provided on a part-time, intermittent basis pursuant to division (C) of this section. 32031
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A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section. 32033
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(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication: 32038
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(a) A registered nurse licensed under Chapter 4723. of the Revised Code; 32051
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(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 32053
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(c) A medication aide certified under Chapter 4723. of the Revised Code; 32060
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(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 32062
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(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following: 32065
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(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container; 32068
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(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. 32070
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(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident. 32075
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(C) A residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled 32083
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nursing care on a part-time, intermittent basis. The council shall
adopt rules that are consistent with rules pertaining to home
health care adopted by the director of job and family services for
the medical assistance program established under Chapter 5111. of
the Revised Code. Skilled nursing care provided pursuant to this
division may be provided by a home health agency certified under
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42
U.S.C.A. 301, as amended, a hospice care program licensed under
Chapter 3712. of the Revised Code, or a member of the staff of a
residential care facility who is qualified to perform skilled
nursing care.

A residential care facility that provides skilled nursing
care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care
at least once every seven days to determine whether the resident
should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident
receiving the care.

(D) Notwithstanding any other provision of this chapter, a
residential care facility in which residents receive skilled
nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) The director of health shall license homes
and establish procedures to be followed in inspecting and
licensing homes. The director may inspect a home at any time. Each
home shall be inspected by the director at least once prior to the
issuance of a license and at least once every fifteen months
thereafter. The state fire marshal or a township, municipal, or
other legally constituted fire department approved by the marshal
shall also inspect a home prior to issuance of a license, at least
once every fifteen months thereafter, and at any other time

requested by the director. A home does not have to be inspected 32121
prior to issuance of a license by the director, state fire 32122
marshal, or a fire department if ownership of the home is assigned 32123
or transferred to a different person and the home was licensed 32124
under this chapter immediately prior to the assignment or 32125
transfer. The director may enter at any time, for the purposes of 32126
investigation, any institution, residence, facility, or other 32127
structure that has been reported to the director or that the 32128
director has reasonable cause to believe is operating as a nursing 32129
home, residential care facility, or home for the aging without a 32130
valid license required by section 3721.05 of the Revised Code or, 32131
in the case of a county home or district home, is operating 32132
despite the revocation of its residential care facility license. 32133
The director may delegate the director's authority and duties 32134
under this chapter to any division, bureau, agency, or official of 32135
the department of health. 32136

(B) A single facility may be licensed both as a nursing home 32137
pursuant to this chapter and as an adult care facility pursuant to 32138
Chapter 3722. of the Revised Code if the director determines that 32139
the part or unit to be licensed as a nursing home can be 32140
maintained separate and discrete from the part or unit to be 32141
licensed as an adult care facility. 32142

(C) In determining the number of residents in a home for the 32143
purpose of licensing, the director shall consider all the 32144
individuals for whom the home provides accommodations as one group 32145
unless one of the following is the case: 32146

(1) The home is a home for the aging, in which case all the 32147
individuals in the part or unit licensed as a nursing home shall 32148
be considered as one group, and all the individuals in the part or 32149
unit licensed as a rest home shall be considered as another group. 32150

(2) The home is both a nursing home and an adult care 32151
facility. In that case, all the individuals in the part or unit 32152

licensed as a nursing home shall be considered as one group, and 32153
all the individuals in the part or unit licensed as an adult care 32154
facility shall be considered as another group. 32155

(3) The home maintains, in addition to a nursing home or 32156
residential care facility, a separate and discrete part or unit 32157
that provides accommodations to individuals who do not require or 32158
receive skilled nursing care and do not receive personal care 32159
services from the home, in which case the individuals in the 32160
separate and discrete part or unit shall not be considered in 32161
determining the number of residents in the home if the separate 32162
and discrete part or unit is in compliance with the Ohio basic 32163
building code established by the board of building standards under 32164
Chapters 3781. and 3791. of the Revised Code and the home permits 32165
the director, on request, to inspect the separate and discrete 32166
part or unit and speak with the individuals residing there, if 32167
they consent, to determine whether the separate and discrete part 32168
or unit meets the requirements of this division. 32169

(D) The director of health shall charge an application fee 32170
and an annual renewal licensing and inspection fee of one hundred 32171
~~five~~ seventy dollars for each fifty persons or part thereof of a 32172
home's licensed capacity. All fees collected by the director for 32173
the issuance or renewal of licenses shall be deposited into the 32174
state treasury to the credit of the general operations fund 32175
created in section 3701.83 of the Revised Code for use only in 32176
administering and enforcing this chapter and rules adopted under 32177
it. 32178

(E)(1) Except as otherwise provided in this section, the 32179
results of an inspection or investigation of a home that is 32180
conducted under this section, including any statement of 32181
deficiencies and all findings and deficiencies cited in the 32182
statement on the basis of the inspection or investigation, shall 32183
be used solely to determine the home's compliance with this 32184

chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.03. The (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. The director may hold hearings, issue subpoenas, compel testimony, and make adjudications. ~~In~~

The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded therefor pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person, firm, partnership, association, corporation, county home, or district home licensed under section 3721.07 of the Revised Code is in violation of:

(1) Has violated any of the provisions of Chapter 3721. of

the Revised Code or rules adopted by the public health council 32215
under it; ~~is in violation of~~ 32216

(2) Has violated any order issued by the director; ~~is~~ 32217

(3) Is not, or any of its principals are not suitable, 32218
morally or financially to operate such an institution; ~~or is~~ 32219

(4) Is not furnishing humane, kind, and adequate treatment 32220
and care, ~~the director may issue an order revoking the license~~ 32221
~~previously issued by the director;~~ 32222

(5) Has had a long-standing pattern of violations of this 32223
chapter or the rules adopted under it that has caused physical, 32224
emotional, mental, or psychosocial harm to one or more residents. 32225

~~Upon~~ 32226

Upon the issuance of any order of revocation, the person 32227
whose license is revoked, or the county home or district home that 32228
has its license revoked, may appeal in accordance with Chapter 32229
119. of the Revised Code. 32230

~~The state fire marshal shall enforce all statutes and rules~~ 32231
~~pertaining to fire safety in homes and shall adopt rules~~ 32232
~~pertaining to fire safety in homes as the marshal determines~~ 32233
~~necessary. The rules adopted by the marshal shall be in addition~~ 32234
~~to those fire safety rules that the board of building standards~~ 32235
~~and the public health council are empowered to adopt and shall be~~ 32236
~~adopted prior to December 31, 1972. In the event of a dispute~~ 32237
~~between the marshal and another officer having responsibilities~~ 32238
~~under sections 3721.01 to 3721.09 of the Revised Code with respect~~ 32239
~~to the interpretation or application of a specific fire safety~~ 32240
~~statute or rule, the interpretation of the marshal shall prevail.~~ 32241

~~If the ownership of a home is assigned or transferred to a~~ 32242
~~different person, the new owner is responsible and liable for~~ 32243
~~compliance with any notice of proposed action or order issued~~ 32244
~~under this section in accordance with Chapter 119. of the Revised~~ 32245

Code prior to the effective date of the assignment or transfer (C) 32246
Once the director notifies a person, county home, or district home 32247
licensed to operate a home that the license may be revoked or 32248
issues any order under this section, the person, county home, or 32249
district home shall not assign or transfer to another person or 32250
entity the right to operate the home. This prohibition shall 32251
remain in effect until proceedings under Chapter 119. of the 32252
Revised Code concerning the order or license revocation have been 32253
concluded or the director notifies the person, county home, or 32254
district home that the prohibition has been lifted. 32255

If a license is revoked under this section, the former 32256
license holder shall not assign or transfer or consent to 32257
assignment or transfer of the right to operate the home. Any 32258
attempted assignment or transfer to another person or entity is 32259
void. 32260

On revocation of a license, the former licensee shall take 32261
all necessary steps to cease operation of the home. 32262

The director of health shall not accept a certificate of need 32263
application under section 3702.52 of the Revised Code regarding a 32264
home if the license to operate the home has been revoked under 32265
this section. 32266

Sec. 3721.032. The state fire marshal shall enforce all 32267
statutes and rules pertaining to fire safety in homes and shall 32268
adopt rules pertaining to fire safety in homes as the marshal 32269
determines necessary. The rules adopted by the marshal shall be in 32270
addition to those fire safety rules that the board of building 32271
standards and the public health council are empowered to adopt. In 32272
the event of a dispute between the marshal and another officer 32273
having responsibilities under sections 3721.01 to 3721.09 of the 32274
Revised Code with respect to the interpretation or application of 32275
a specific fire safety statute or rule, the interpretation of the 32276

marshal shall prevail.

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Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with:

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(A) The applicant has not been convicted of a felony or a crime involving moral turpitude;

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(B) The applicant is not violating any of the rules made by the public health council or any order issued by the director of health;

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(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

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(D) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

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~~(D)~~(E) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are suitable financially and morally to operate a home;

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~~(E)~~(F) The applicant is equipped to furnish humane, kind, and adequate treatment and care; 32307
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~~(F)~~(G) The home does not maintain or contain: 32309

(1) Facilities for the performance of major surgical procedures; 32310
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(2) Facilities for providing therapeutic radiation; 32312

(3) An emergency ward; 32313

(4) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state; 32314
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(5) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state. 32317
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~~(G)~~(H) The home does not accept or treat outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, and does not house transient guests, other than participants in an adult day-care program, for twenty-four hours or less; 32320
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~~(H)~~(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code. 32325
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When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one 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. 32327
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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 may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds

shall be credited to the resident's account. A resident's funds 32368
that are one hundred dollars or less and have not been deposited 32369
in an interest-bearing account may be deposited in a 32370
noninterest-bearing account or petty cash fund. 32371

(C) Each resident whose financial affairs are managed by a 32372
home shall be promptly notified by the home when the total of the 32373
amount of funds in the resident's accounts and the petty cash fund 32374
plus other nonexempt resources reaches two hundred dollars less 32375
than the maximum amount permitted a recipient of medicaid. The 32376
notice shall include an explanation of the potential effect on the 32377
resident's eligibility for medicaid if the amount in the 32378
resident's accounts and the petty cash fund, plus the value of 32379
other nonexempt resources, exceeds the maximum assets a medicaid 32380
recipient may retain. 32381

(D) Each home that manages the financial affairs of residents 32382
shall purchase a surety bond or otherwise provide assurance 32383
satisfactory to the director of health, or, in the case of a home 32384
that participates in the medicaid program, to the director of job 32385
and family services, to assure the security of all residents' 32386
funds managed by the home. 32387

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 32388
Revised Code: 32389

(A) "Long-term care facility" means either of the following: 32390

(1) A nursing home as defined in section 3721.01 of the 32391
Revised Code, other than a nursing home or part of a nursing home 32392
certified as an intermediate care facility for the mentally 32393
retarded under Title XIX of the "Social Security Act," 49 Stat. 32394
620 (1935), 42 U.S.C.A. 301, as amended; 32395

(2) A facility or part of a facility that is certified as a 32396
skilled nursing facility or a nursing facility under Title XVIII 32397

or XIX of the "Social Security Act." 32398

(B) "Residential care facility" has the same meaning as in 32399
section 3721.01 of the Revised Code. 32400

(C) "Abuse" means knowingly causing physical harm or 32401
recklessly causing serious physical harm to a resident by physical 32402
contact with the resident or by use of physical or chemical 32403
restraint, medication, or isolation as punishment, for staff 32404
convenience, excessively, as a substitute for treatment, or in 32405
amounts that preclude habilitation and treatment. 32406

(D) "Neglect" means recklessly failing to provide a resident 32407
with any treatment, care, goods, or service necessary to maintain 32408
the health or safety of the resident when the failure results in 32409
serious physical harm to the resident. "Neglect" does not include 32410
allowing a resident, at the resident's option, to receive only 32411
treatment by spiritual means through prayer in accordance with the 32412
tenets of a recognized religious denomination. 32413

(E) "Misappropriation" means depriving, defrauding, or 32414
otherwise obtaining the real or personal property of a resident by 32415
any means prohibited by the Revised Code, including violations of 32416
Chapter 2911. or 2913. of the Revised Code. 32417

(F) "Resident" includes a resident, patient, former resident 32418
or patient, or deceased resident or patient of a long-term care 32419
facility or a residential care facility. 32420

(G) "Physical restraint" has the same meaning as in section 32421
3721.10 of the Revised Code. 32422

(H) "Chemical restraint" has the same meaning as in section 32423
3721.10 of the Revised Code. 32424

(I) "Nursing and nursing-related services" means the personal 32425
care services and other services not constituting skilled nursing 32426
care that are specified in rules the public health council shall 32427

adopt in accordance with Chapter 119. of the Revised Code. 32428

(J) "Personal care services" has the same meaning as in 32429
section 3721.01 of the Revised Code. 32430

(K)(1) Except as provided in division (K)(2) of this section, 32431
~~"Nurse nurse aide" means an individual, other than a licensed~~ 32432
~~health professional practicing within the scope of the~~ 32433
~~professional's license,~~ who provides nursing and nursing-related 32434
services to residents in a long-term care facility, either as a 32435
member of the staff of the facility for monetary compensation or 32436
as a volunteer without monetary compensation. 32437

(2) "Nurse aide" does not include either of the following: 32438

(a) A licensed health professional practicing within the 32439
scope of the professional's license; 32440

(b) An individual providing nursing and nursing-related 32441
services in a religious nonmedical health care institution, if the 32442
individual has been trained in the principles of nonmedical care 32443
and is recognized by the institution as being competent in the 32444
administration of care within the religious tenets practiced by 32445
the residents of the institution. 32446

(L) "Licensed health professional" means all of the 32447
following: 32448

(1) An occupational therapist or occupational therapy 32449
assistant licensed under Chapter 4755. of the Revised Code; 32450

(2) A physical therapist or physical therapy assistant 32451
licensed under Chapter 4755. of the Revised Code; 32452

(3) A physician authorized under Chapter 4731. of the Revised 32453
Code to practice medicine and surgery, osteopathic medicine and 32454
surgery, or podiatry; 32455

(4) A physician assistant authorized under Chapter 4730. of 32456
the Revised Code to practice as a physician assistant; 32457

(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	32458 32459
(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;	32460 32461 32462
(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	32463 32464
(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	32465 32466
(9) An optometrist licensed under Chapter 4725. of the Revised Code;	32467 32468
(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	32469 32470
(11) A psychologist licensed under Chapter 4732. of the Revised Code;	32471 32472
(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	32473 32474
(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;	32475 32476
(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.	32477 32478
(M) <u>"Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.</u>	32479 32480 32481 32482 32483 32484 32485 32486

(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.

~~(N)~~(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(C) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(D) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.

(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(F)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII of the ~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

(c) A nursing facility ~~as defined in section 5111.20 of the Revised Code,~~ other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include a any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code ~~or a;~~

(b) A nursing home maintained and operated by the Ohio veterans' home agency under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act."

~~(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~

(G) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) ~~For~~ Subject to division (C) of this section and for the purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the

Revised Code, determine an annual franchise permit fee on each 32546
nursing home in an amount equal to ~~three dollars and thirty cents~~ 32547
~~for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five 32548
cents for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one 32549
dollar for each fiscal year thereafter, multiplied by the product 32550
of the following: 32551

(1) The number of beds licensed as nursing home beds, plus 32552
any other beds certified as skilled nursing facility beds under 32553
Title XVIII or nursing facility beds under Title XIX ~~of the~~ 32554
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as~~ 32555
~~amended, on July 1, 1993, and, for each subsequent year, the first~~ 32556
day of May of the calendar year in which the fee is determined 32557
pursuant to division (A) of section 3721.53 of the Revised Code; 32558

(2) The ~~number of days in fiscal year 1994 and, for each~~ 32559
~~subsequent year, the~~ number of days in the fiscal year beginning 32560
on the first day of July of the calendar year in which the fee is 32561
determined pursuant to division (A) of section 3721.53 of the 32562
Revised Code. 32563

(B) ~~For~~ Subject to division (C) of this section and for the 32564
purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 32565
Revised Code, determine an annual franchise permit fee on each 32566
hospital in an amount equal to ~~three dollars and thirty cents for~~ 32567
~~fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents 32568
for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one dollar 32569
for each fiscal year thereafter, multiplied by the product of the 32570
following: 32571

(1) The number of beds registered pursuant to section 3701.07 32572
of the Revised Code as skilled nursing facility beds or long-term 32573
care beds, plus any other beds licensed as nursing home beds under 32574
section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993,~~ 32575
~~and, for each subsequent year, the~~ first day of May of the 32576
calendar year in which the fee is determined pursuant to division 32577

(A) of section 3721.53 of the Revised Code; 32578

(2) ~~The number of days in fiscal year 1994 and, for each~~ 32579
~~subsequent year, the~~ number of days in the fiscal year beginning 32580
on the first day of July of the calendar year in which the fee is 32581
determined pursuant to division (A) of section 3721.53 of the 32582
Revised Code. 32583

(C) If the United States centers for medicare and medicaid 32584
services determines that the franchise permit fee established by 32585
sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an 32586
impermissible health care related tax under section 1903(w) of the 32587
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 32588
amended, ~~the department of job and family services shall~~ take all 32589
necessary actions to cease implementation of ~~these~~ sections 32590
3721.50 to 3721.58 of the Revised Code in accordance with rules 32591
adopted under section 3721.58 of the Revised Code. 32592

Sec. 3721.52. (A) For the purpose of the fee under division 32593
(A) of section 3721.51 of the Revised Code, the department of 32594
health shall, ~~not later than August 1, 1993, and, for each~~ 32595
~~subsequent year,~~ not later than the first day of each June, report 32596
to the department of job and family services the number of beds in 32597
each nursing home licensed on ~~July 1, 1993, and, for each~~ 32598
~~subsequent year,~~ the preceding first day of May under section 32599
3721.02 or 3721.09 of the Revised Code or certified on that date 32600
under Title XVIII or XIX ~~of the "Social Security Act," 49 Stat.~~ 32601
~~620 (1935), 42 U.S.C.A. 301, as amended.~~ 32602

(B) For the purpose of the fee under division (B) of section 32603
3721.51 of the Revised Code, the department of health shall, ~~not~~ 32604
~~later than August 1, 1993, and, for each subsequent year,~~ not 32605
later than the first day of each June, report to the department of 32606
job and family services the number of beds in each hospital 32607
registered on ~~July 1, 1993, and, for each subsequent year,~~ the 32608

preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

Sec. 3721.541. (A) In addition to assessing a penalty pursuant to section 3721.54 of the Revised Code, the department of job and family services may do either of the following if a nursing facility or hospital fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty assessed under section 3721.54 of the Revised Code from a medicaid payment due the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty;

(2) Terminate the nursing facility or hospital's medicaid provider agreement.

(B) The department may withhold a medicaid payment under division (A)(1) of this section without providing notice to the nursing facility or hospital and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. 3721.56. ~~(A) Thirty and three tenths~~ There is hereby created in the state treasury the home- and community-based services for the aged fund. Sixteen per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal ~~year 2002,~~ 2006 and 2007, ~~twenty three and twenty six hundredths per cent of such payments and penalties paid for fiscal years 2003 through 2005~~ and 2007, and all such payments and penalties paid for subsequent fiscal years, shall be deposited into the ~~"home and community based services for the aged fund,"~~ which is hereby created in the state treasury. The departments of job and family

services and aging shall use the moneys in the fund to fund the 32639
following in accordance with rules adopted under section 3721.58 32640
of the Revised Code: 32641

~~(1)(A) The medical assistance medicaid program established 32642
under Chapter 5111. of the Revised Code: 32643~~

~~(2) The, including the PASSPORT program established under 32644
section 173.40 of the Revised Code; 32645~~

~~(3)(B) The residential state supplement program established 32646
under section 173.35 of the Revised Code. 32647~~

~~(B) Sixty nine and seven tenths per cent of all payments and 32648
penalties paid by nursing homes and hospitals under sections 32649
3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and 32650
seventy six and seventy four hundredths per cent of such payments 32651
and penalties paid for fiscal years 2003 through 2005, shall be 32652
deposited into the nursing facility stabilization fund, which is 32653
hereby created in the state treasury. The department of job and 32654
family services shall use the money in the fund in the manner 32655
provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th 32656
general assembly. 32657~~

Sec. 3721.561. (A) There is hereby created in the state 32658
treasury the nursing facility stabilization fund. All payments and 32659
penalties paid by nursing homes and hospitals under sections 32660
3721.53 and 3721.54 of the Revised Code that are not deposited 32661
into the home and community-based services for the aged fund shall 32662
be deposited into the fund. The department of job and family 32663
services shall use the money in the fund to make medicaid payments 32664
to nursing facilities. 32665

(B) Any money remaining in the nursing facility stabilization 32666
fund after payments specified in division (A) of this section are 32667
made shall be retained in the fund. Any interest or other 32668

investment proceeds earned on money in the fund shall be credited 32669
to the fund and used to make medicaid payments in accordance with 32670
division (A) of this section. 32671

Sec. 3721.58. The director of job and family services shall 32672
adopt rules in accordance with Chapter 119. of the Revised Code to 32673
do ~~both~~ all of the following: 32674

(A) Prescribe the actions the department of job and family 32675
services will take to cease implementation of sections 3721.50 32676
through 3721.57 of the Revised Code if the United States ~~health~~ 32677
~~care financing administration~~ centers for medicare and medicaid 32678
services determines that the franchise permit fee established by 32679
those sections is an impermissible health-care related tax under 32680
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 32681
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 32682

(B) Establish the method of distributing moneys in the home 32683
and community-based services for the aged fund created under 32684
section 3721.56 of the Revised Code; 32685

(C) Establish any requirements or procedures the director 32686
considers necessary to implement sections 3721.50 to 3721.58 of 32687
the Revised Code. 32688

Sec. 3722.01. (A) As used in this chapter: 32689

(1) "Owner" means the person who owns the business of and who 32690
ultimately controls the operation of an adult care facility and to 32691
whom the manager, if different from the owner, is responsible. 32692

(2) "Manager" means the person responsible for the daily 32693
operation of an adult care facility. The manager and the owner of 32694
a facility may be the same person. 32695

(3) "Adult" means an individual eighteen years of age or 32696
older. 32697

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;

(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.

(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.

(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.

(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.

(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. "Adult care facility" does not include:

(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;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) A community alternative home as defined in section 3724.01 of the Revised Code;

(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

~~(e) A habilitation center as defined in section 5123.041 of the Revised Code;~~

~~(f)~~ A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

~~(g)~~(f) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(h)~~(g) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities;

~~(i)~~(h) 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, 32758
social or recreational activities, maintenance, security, 32759
transportation, and similar services that are not personal care 32760
services or skilled nursing care; 32761

~~(j)~~(i) Any facility that receives funding for operating costs 32762
from the department of development under any program established 32763
to provide emergency shelter housing or transitional housing for 32764
the homeless; 32765

~~(k)~~(j) A terminal care facility for the homeless that has 32766
entered into an agreement with a hospice care program under 32767
section 3712.07 of the Revised Code; 32768

~~(l)~~(k) A facility approved by the veterans administration 32769
under section 104(a) of the "Veterans Health Care Amendments of 32770
1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used 32771
exclusively for the placement and care of veterans; 32772

~~(m)~~(l) Until January 1, 1994, the portion of a facility in 32773
which care is provided exclusively to members of a religious order 32774
if the facility is owned by or part of a nonprofit institution of 32775
higher education authorized to award degrees by the Ohio board of 32776
regents under Chapter 1713. of the Revised Code. 32777

(10) "Residents' rights advocate" means: 32778

(a) An employee or representative of any state or local 32779
government entity that has a responsibility for residents of adult 32780
care facilities and has registered with the department of health 32781
under section 3701.07 of the Revised Code; 32782

(b) An employee or representative, other than a manager or 32783
employee of an adult care facility or nursing home, of any private 32784
nonprofit corporation or association that qualifies for tax-exempt 32785
status under section 501(a) of the "Internal Revenue Code of 32786
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 32787
registered with the department of health under section 3701.07 of 32788

the Revised Code, and whose purposes include educating and 32789
counseling residents, assisting residents in resolving problems 32790
and complaints concerning their care and treatment, and assisting 32791
them in securing adequate services. 32792

(11) "Sponsor" means an adult relative, friend, or guardian 32793
of a resident of an adult care facility who has an interest in or 32794
responsibility for the resident's welfare. 32795

(12) "Ombudsperson" means a "representative of the office of 32796
the state long-term care ombudsperson program" as defined in 32797
section 173.14 of the Revised Code. 32798

(13) "Mental health agency" means a community mental health 32799
agency, as defined in section 5119.22 of the Revised Code, under 32800
contract with a board of alcohol, drug addiction, and mental 32801
health services pursuant to division (A)(8)(a) of section 340.03 32802
of the Revised Code. 32803

(B) For purposes of this chapter, personal care services or 32804
skilled nursing care shall be considered to be provided by a 32805
facility if they are provided by a person employed by or 32806
associated with the facility or by another person pursuant to an 32807
agreement to which neither the resident who receives the services 32808
nor the resident's sponsor is a party. 32809

(C) Nothing in division (A)(6) of this section shall be 32810
construed to permit personal care services to be imposed upon a 32811
resident who is capable of performing the activity in question 32812
without assistance. 32813

Sec. 3722.02. A person seeking a license to operate an adult 32814
care facility shall submit to the director of health an 32815
application on a form prescribed by the director and the 32816
following: 32817

(A) In the case of an adult group home seeking licensure as 32818

an adult care facility, evidence that the home has been inspected 32819
and approved by a local certified building department or by the 32820
division of industrial compliance in the department of commerce as 32821
meeting the applicable requirements of sections 3781.06 to 3781.18 32822
and 3791.04 of the Revised Code and any rules adopted under those 32823
sections and evidence that the home has been inspected by the 32824
state fire marshal or fire prevention officer of a municipal, 32825
township, or other legally constituted fire department approved by 32826
the state fire marshal and found to be in compliance with rules 32827
adopted under section 3737.83 of the Revised Code regarding fire 32828
prevention and safety in adult group homes; 32829

(B) Valid approvals of the facility's water and sewage 32830
systems issued by the responsible governmental entity, if 32831
applicable; 32832

(C) A statement of ownership containing the following 32833
information: 32834

(1) If the owner is an individual, the owner's name, address, 32835
telephone number, business address, business telephone number, and 32836
occupation. If the owner is an association, corporation, or 32837
partnership, the business activity, address, and telephone number 32838
of the entity and the name of every person who has an ownership 32839
interest of five per cent or more in the entity. 32840

(2) If the owner does not own the building or if the owner 32841
owns only part of the building in which the facility is housed, 32842
the name of each person who has an ownership interest of five per 32843
cent or more in the building; 32844

(3) The address of any adult care facility and any facility 32845
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 32846
the Revised Code in which the owner has an ownership interest of 32847
five per cent or more; 32848

(4) The identity of the manager of the adult care facility, 32849

if different from the owner; 32850

(5) The name and address of any adult care facility and any 32851
facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 32852
3722.01 of the Revised Code with which either the owner or manager 32853
has been affiliated through ownership or employment in the five 32854
years prior to the date of the application; 32855

(6) The names and addresses of three persons not employed by 32856
or associated in business with the owner who will provide 32857
information about the character, reputation, and competence of the 32858
owner and the manager and the financial responsibility of the 32859
owner; 32860

(7) Information about any arrest of the owner or manager for, 32861
or adjudication or conviction of, a criminal offense related to 32862
the provision of care in an adult care facility or any facility 32863
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 32864
the Revised Code or the ability to operate a facility; 32865

(8) Any other information the director may require regarding 32866
the owner's ability to operate the facility. 32867

(D) If the facility is an adult group home, a balance sheet 32868
showing the assets and liabilities of the owner and a statement 32869
projecting revenues and expenses for the first twelve months of 32870
the facility's operation; 32871

(E) Proof of insurance in an amount and type determined in 32872
rules adopted by the public health council pursuant to this 32873
chapter to be adequate; 32874

(F) A nonrefundable license application fee in an amount 32875
established in rules adopted by the public health council pursuant 32876
to this chapter. 32877

Sec. 3722.04. (A)(1) The director of health shall inspect, 32878
license, and regulate adult care facilities. Except as otherwise 32879

provided in division (D) of this section, the director shall issue 32880
a license to an adult care facility that meets the requirements of 32881
section 3722.02 of the Revised Code and that the director 32882
determines to be in substantial compliance with the rules adopted 32883
by the public health council pursuant to this chapter. The 32884
director shall consider the past record of the owner and manager 32885
and any individuals who are principal participants in an entity 32886
that is the owner or manager in operating facilities providing 32887
care to adults. The director may, in accordance with Chapter 119. 32888
of the Revised Code, deny a license if the past record indicates 32889
that the owner or manager is not suitable to own or manage an 32890
adult care facility. 32891

The license shall contain the name and address of the 32892
facility for which it was issued, the date of expiration of the 32893
license, and the maximum number of residents that may be 32894
accommodated by the facility. A license for an adult care facility 32895
shall be valid for a period of two years after the date of 32896
issuance. No single facility may be licensed to operate as more 32897
than one adult care facility. 32898

(2) Notwithstanding division (A)(1) of this section and 32899
sections 3722.02 and 3722.041 of the Revised Code, the director 32900
may issue a temporary license if the requirements of divisions 32901
(C), (D), and (F) of section 3722.02 of the Revised Code have been 32902
met. A temporary license shall be valid for a period of ninety 32903
days and, except as otherwise provided in division (A)(3) of 32904
section 3722.05 of the Revised Code, may be renewed, without 32905
payment of an additional application fee, for an additional ninety 32906
days. 32907

(B) The director shall renew a license for a two-year period 32908
if the facility continues to be in compliance with the 32909
requirements of this chapter and in substantial compliance with 32910
the rules adopted under this chapter. The owner shall submit a 32911

nonrefundable license renewal application fee in an amount 32912
established in rules adopted by the public health council pursuant 32913
to this chapter. Before the license of an adult group home is 32914
renewed, if any alterations have been made to the buildings, a 32915
certificate of occupancy for the facility shall have been issued 32916
by the division of industrial compliance in the department of 32917
commerce or a local certified building department. The facility 32918
shall have water and sewage system approvals, if required by law, 32919
and, in the case of an adult group home, documentation of 32920
continued compliance with the rules adopted by the state fire 32921
marshal under division (F) of section 3737.83 of the Revised Code. 32922

(C) The director shall make at least one unannounced 32923
inspection of an adult care facility during each licensure period 32924
in addition to inspecting the facility to determine whether a 32925
license should be issued or renewed, and may make additional 32926
unannounced inspections as the director considers necessary. Other 32927
inspections may be made at any time that the director considers 32928
appropriate. The director shall take all reasonable actions to 32929
avoid giving notice of an inspection by the manner in which the 32930
inspection is scheduled or performed. Not later than sixty days 32931
after the date of an inspection of a facility, the director shall 32932
send a report of the inspection to the ombudsperson in whose 32933
region the facility is located. The state fire marshal or fire 32934
prevention officer of a municipal, township, or other legally 32935
constituted fire department approved by the state fire marshal 32936
shall inspect an adult group home seeking a license or renewal 32937
under this chapter as an adult care facility prior to issuance of 32938
a license or renewal, at least once annually thereafter, and at 32939
any other time at the request of the director, to determine 32940
compliance with the rules adopted under division (F) of section 32941
3737.83 of the Revised Code. 32942

(D) The director may waive any of the licensing requirements 32943

having to do with fire and safety requirements or building 32944
standards established by rule adopted by the public health council 32945
pursuant to this chapter upon written request of the facility. The 32946
director may grant a waiver if the director determines that the 32947
strict application of the licensing requirement would cause undue 32948
hardship to the facility and that granting the waiver would not 32949
jeopardize the health or safety of any resident. The director may 32950
provide a facility with an informal hearing concerning the denial 32951
of a waiver request, but the facility shall not be entitled to a 32952
hearing under Chapter 119. of the Revised Code unless the director 32953
takes an action that requires a hearing to be held under section 32954
3722.05 of the Revised Code. 32955

(E)(1) ~~Not later than thirty days after the issuance or~~ 32956
~~renewal of the license, other than a temporary license, of an~~ 32957
~~adult care facility under this section~~ each of the following, the 32958
owner of an adult care facility shall submit an inspection fee of 32959
~~ten~~ twenty dollars for each bed for which the facility is 32960
licensed: 32961

(a) Issuance or renewal of a license, other than a temporary 32962
license; 32963

(b) The unannounced inspection required by division (C) of 32964
this section; 32965

(c) If, during an inspection conducted in addition to the two 32966
inspections required by division (C) of this section, the facility 32967
was found to be in violation of this chapter or the rules adopted 32968
under it, receipt by the facility of the report of that 32969
investigation. The 32970

(2) The director may revoke the license of any adult care 32971
facility that fails to submit the fee within the thirty-day 32972
period. ~~All~~ 32973

(3) All inspection fees received by the director, all civil 32974

penalties assessed under section 3722.08 of the Revised Code, all 32975
fines imposed under section 3722.99 of the Revised Code, and all 32976
license application and renewal application fees received under 32977
division (F) of section 3722.02 of the Revised Code or under 32978
division (B) of this section shall be deposited into the general 32979
operations fund created in section 3701.83 of the Revised Code and 32980
shall be used only to pay the costs of administering and enforcing 32981
the requirements of this chapter and rules adopted under it. 32982

(F)(1) An owner shall inform the director in writing of any 32983
changes in the information contained in the statement of ownership 32984
made pursuant to division (C) of section 3722.02 of the Revised 32985
Code or in the identity of the manager, not later than ten days 32986
after the change occurs. 32987

(2) An owner who sells or transfers an adult care facility 32988
shall be responsible and liable for the following: 32989

(a) Any civil penalties imposed against the facility under 32990
section 3722.08 of the Revised Code for violations that occur 32991
before the date of transfer of ownership or during any period in 32992
which the seller or the seller's agent operates the facility; 32993

(b) Any outstanding liability to the state, unless the buyer 32994
or transferee has agreed, as a condition of the sale or transfer, 32995
to accept the outstanding liabilities and to guarantee their 32996
payment, except that if the buyer or transferee fails to meet 32997
these obligations the seller or transferor shall remain 32998
responsible for the outstanding liability. 32999

(G) The director shall annually publish a list of licensed 33000
adult care facilities, facilities whose licenses have been revoked 33001
or not renewed, any facilities under an order suspending 33002
admissions pursuant to section 3722.07 of the Revised Code, and 33003
any facilities that have been assessed a civil penalty pursuant to 33004
section 3722.08 of the Revised Code. The director shall furnish 33005

information concerning the status of licensure of any facility to 33006
any person upon request. The director shall annually send a copy 33007
of the list to the department of job and family services, to the 33008
department of mental health, and to the department of aging. 33009

Sec. 3734.01. As used in this chapter: 33010

(A) "Board of health" means the board of health of a city or 33011
general health district or the authority having the duties of a 33012
board of health in any city as authorized by section 3709.05 of 33013
the Revised Code. 33014

(B) "Director" means the director of environmental 33015
protection. 33016

(C) "Health district" means a city or general health district 33017
as created by or under authority of Chapter 3709. of the Revised 33018
Code. 33019

(D) "Agency" means the environmental protection agency. 33020

(E) "Solid wastes" means such unwanted residual solid or 33021
semisolid material as results from industrial, commercial, 33022
agricultural, and community operations, excluding earth or 33023
material from construction, mining, or demolition operations, or 33024
other waste materials of the type that normally would be included 33025
in demolition debris, nontoxic fly ash and bottom ash, including 33026
at least ash that results from the combustion of coal and ash that 33027
results from the combustion of coal in combination with scrap 33028
tires where scrap tires comprise not more than fifty per cent of 33029
heat input in any month, spent nontoxic foundry sand, nontoxic, 33030
nonhazardous, unwanted fired and unfired, glazed and unglazed, 33031
structural shale and clay products, and slag and other substances 33032
that are not harmful or inimical to public health, and includes, 33033
but is not limited to, garbage, scrap tires, combustible and 33034
noncombustible material, street dirt, and debris. "Solid wastes" 33035

does not include ~~any~~ either of the following: 33036

(1) Any material that is an infectious waste or a hazardous waste; 33037
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(2) Spent petroleum refinery hydrotreating, hydrorefining, and hydrocracking catalysts that are used to produce ferrovanadium, iron nickel molybdenum, and calcium aluminate alloys for the steel, iron, and nickel industries unless the catalysts are disposed of at a solid waste facility licensed under this chapter or are accumulated speculatively. 33039
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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. 33045
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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 instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code. 33053
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(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code. 33057
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(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as

amended. 33098

(K) "Treat" or "treatment," when used in connection with 33099
hazardous waste, means any method, technique, or process designed 33100
to change the physical, chemical, or biological characteristics or 33101
composition of any hazardous waste; to neutralize the waste; to 33102
recover energy or material resources from the waste; to render the 33103
waste nonhazardous or less hazardous, safer to transport, store, 33104
or dispose of, or amenable for recovery, storage, further 33105
treatment, or disposal; or to reduce the volume of the waste. When 33106
used in connection with infectious wastes, "treat" or "treatment" 33107
means any method, technique, or process designed to render the 33108
wastes noninfectious, including, without limitation, steam 33109
sterilization and incineration, or, in the instance of wastes 33110
identified in division (R)(7) of this section, to substantially 33111
reduce or eliminate the potential for the wastes to cause 33112
lacerations or puncture wounds. 33113

(L) "Manifest" means the form used for identifying the 33114
quantity, composition, origin, routing, and destination of 33115
hazardous waste during its transportation from the point of 33116
generation to the point of disposal, treatment, or storage. 33117

(M) "Storage," when used in connection with hazardous waste, 33118
means the holding of hazardous waste for a temporary period in 33119
such a manner that it remains retrievable and substantially 33120
unchanged physically and chemically and, at the end of the period, 33121
is treated; disposed of; stored elsewhere; or reused, recycled, or 33122
reclaimed in a beneficial manner. When used in connection with 33123
solid wastes that consist of scrap tires, "storage" means the 33124
holding of scrap tires for a temporary period in such a manner 33125
that they remain retrievable and, at the end of that period, are 33126
beneficially used; stored elsewhere; placed in a scrap tire 33127
monocell or monofill facility licensed under section 3734.81 of 33128
the Revised Code; processed at a scrap tire recovery facility 33129

licensed under that section or a solid waste incineration or 33130
energy recovery facility subject to regulation under this chapter; 33131
or transported to a scrap tire monocell, monofill, or recovery 33132
facility, any other solid waste facility authorized to dispose of 33133
scrap tires, or a facility that will beneficially use the scrap 33134
tires, that is located in another state and is operating in 33135
compliance with the laws of the state in which the facility is 33136
located. 33137

(N) "Facility" means any site, location, tract of land, 33138
installation, or building used for incineration, composting, 33139
sanitary landfilling, or other methods of disposal of solid wastes 33140
or, if the solid wastes consist of scrap tires, for the 33141
collection, storage, or processing of the solid wastes; for the 33142
transfer of solid wastes; for the treatment of infectious wastes; 33143
or for the storage, treatment, or disposal of hazardous waste. 33144

(O) "Closure" means the time at which a hazardous waste 33145
facility will no longer accept hazardous waste for treatment, 33146
storage, or disposal, the time at which a solid waste facility 33147
will no longer accept solid wastes for transfer or disposal or, if 33148
the solid wastes consist of scrap tires, for storage or 33149
processing, or the effective date of an order revoking the permit 33150
for a hazardous waste facility or the registration certificate, 33151
permit, or license for a solid waste facility, as applicable. 33152
"Closure" includes measures performed to protect public health or 33153
safety, to prevent air or water pollution, or to make the facility 33154
suitable for other uses, if any, including, but not limited to, 33155
the removal of processing residues resulting from solid wastes 33156
that consist of scrap tires; the establishment and maintenance of 33157
a suitable cover of soil and vegetation over cells in which 33158
hazardous waste or solid wastes are buried; minimization of 33159
erosion, the infiltration of surface water into such cells, the 33160
production of leachate, and the accumulation and runoff of 33161

contaminated surface water; the final construction of facilities 33162
for the collection and treatment of leachate and contaminated 33163
surface water runoff, except as otherwise provided in this 33164
division; the final construction of air and water quality 33165
monitoring facilities, except as otherwise provided in this 33166
division; the final construction of methane gas extraction and 33167
treatment systems; or the removal and proper disposal of hazardous 33168
waste or solid wastes from a facility when necessary to protect 33169
public health or safety or to abate or prevent air or water 33170
pollution. With regard to a solid waste facility that is a scrap 33171
tire facility, "closure" includes the final construction of 33172
facilities for the collection and treatment of leachate and 33173
contaminated surface water runoff and the final construction of 33174
air and water quality monitoring facilities only if those actions 33175
are determined to be necessary. 33176

(P) "Premises" means either of the following: 33177

(1) Geographically contiguous property owned by a generator; 33178

(2) Noncontiguous property that is owned by a generator and 33179
connected by a right-of-way that the generator controls and to 33180
which the public does not have access. Two or more pieces of 33181
property that are geographically contiguous and divided by public 33182
or private right-of-way or rights-of-way are a single premises. 33183

(Q) "Post-closure" means that period of time following 33184
closure during which a hazardous waste facility is required to be 33185
monitored and maintained under this chapter and rules adopted 33186
under it, including, without limitation, operation and maintenance 33187
of methane gas extraction and treatment systems, or the period of 33188
time after closure during which a scrap tire monocell or monofill 33189
facility licensed under section 3734.81 of the Revised Code is 33190
required to be monitored and maintained under this chapter and 33191
rules adopted under it. 33192

(R) "Infectious wastes" includes all of the following	33193
substances or categories of substances:	33194
(1) Cultures and stocks of infectious agents and associated	33195
biologicals, including, without limitation, specimen cultures,	33196
cultures and stocks of infectious agents, wastes from production	33197
of biologicals, and discarded live and attenuated vaccines;	33198
(2) Laboratory wastes that were, or are likely to have been,	33199
in contact with infectious agents that may present a substantial	33200
threat to public health if improperly managed;	33201
(3) Pathological wastes, including, without limitation, human	33202
and animal tissues, organs, and body parts, and body fluids and	33203
excreta that are contaminated with or are likely to be	33204
contaminated with infectious agents, removed or obtained during	33205
surgery or autopsy or for diagnostic evaluation, provided that,	33206
with regard to pathological wastes from animals, the animals have	33207
or are likely to have been exposed to a zoonotic or infectious	33208
agent;	33209
(4) Waste materials from the rooms of humans, or the	33210
enclosures of animals, that have been isolated because of	33211
diagnosed communicable disease that are likely to transmit	33212
infectious agents. Such waste materials from the rooms of humans	33213
do not include any wastes of patients who have been placed on	33214
blood and body fluid precautions under the universal precaution	33215
system established by the centers for disease control in the	33216
public health service of the United States department of health	33217
and human services, except to the extent specific wastes generated	33218
under the universal precautions system have been identified as	33219
infectious wastes by rules adopted under division (R)(8) of this	33220
section.	33221
(5) Human and animal blood specimens and blood products that	33222
are being disposed of, provided that, with regard to blood	33223

specimens and blood products from animals, the animals were or are 33224
likely to have been exposed to a zoonotic or infectious agent. 33225
"Blood products" does not include patient care waste such as 33226
bandages or disposable gowns that are lightly soiled with blood or 33227
other body fluids unless those wastes are soiled to the extent 33228
that the generator of the wastes determines that they should be 33229
managed as infectious wastes. 33230

(6) Contaminated carcasses, body parts, and bedding of 33231
animals that were intentionally exposed to infectious agents from 33232
zoonotic or human diseases during research, production of 33233
biologicals, or testing of pharmaceuticals, and carcasses and 33234
bedding of animals otherwise infected by zoonotic or infectious 33235
agents that may present a substantial threat to public health if 33236
improperly managed; 33237

(7) Sharp wastes used in the treatment, diagnosis, or 33238
inoculation of human beings or animals or that have, or are likely 33239
to have, come in contact with infectious agents in medical, 33240
research, or industrial laboratories, including, without 33241
limitation, hypodermic needles and syringes, scalpel blades, and 33242
glass articles that have been broken; 33243

(8) Any other waste materials generated in the diagnosis, 33244
treatment, or immunization of human beings or animals, in research 33245
pertaining thereto, or in the production or testing of 33246
biologicals, that the public health council created in section 33247
3701.33 of the Revised Code, by rules adopted in accordance with 33248
Chapter 119. of the Revised Code, identifies as infectious wastes 33249
after determining that the wastes present a substantial threat to 33250
human health when improperly managed because they are contaminated 33251
with, or are likely to be contaminated with, infectious agents. 33252

(S) "Infectious agent" means a type of microorganism, 33253
helminth, or virus that causes, or significantly contributes to 33254

the cause of, increased morbidity or mortality of human beings. 33255

(T) "Zoonotic agent" means a type of microorganism, helminth, 33256
or virus that causes disease in vertebrate animals and that is 33257
transmissible to human beings and causes or significantly 33258
contributes to the cause of increased morbidity or mortality of 33259
human beings. 33260

(U) "Solid waste transfer facility" means any site, location, 33261
tract of land, installation, or building that is used or intended 33262
to be used primarily for the purpose of transferring solid wastes 33263
that were generated off the premises of the facility from vehicles 33264
or containers into other vehicles for transportation to a solid 33265
waste disposal facility. "Solid waste transfer facility" does not 33266
include any facility that consists solely of portable containers 33267
that have an aggregate volume of fifty cubic yards or less nor any 33268
facility where legitimate recycling activities are conducted. 33269

(V) "Beneficially use" means to use a scrap tire in a manner 33270
that results in a commodity for sale or exchange or in any other 33271
manner authorized as a beneficial use in rules adopted by the 33272
director in accordance with Chapter 119. of the Revised Code. 33273

(W) "Commercial car," "commercial tractor," "farm machinery," 33274
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 33275
the same meanings as in section 4501.01 of the Revised Code. 33276

(X) "Construction equipment" means road rollers, traction 33277
engines, power shovels, power cranes, and other equipment used in 33278
construction work, or in mining or producing or processing 33279
aggregates, and not designed for or used in general highway 33280
transportation. 33281

(Y) "Motor vehicle salvage dealer" has the same meaning as in 33282
section 4738.01 of the Revised Code. 33283

(Z) "Scrap tire" means an unwanted or discarded tire. 33284

(AA) "Scrap tire collection facility" means any facility that 33285
meets all of the following qualifications: 33286

(1) The facility is used for the receipt and storage of whole 33287
scrap tires from the public prior to their transportation to a 33288
scrap tire storage, monocell, monofill, or recovery facility 33289
licensed under section 3734.81 of the Revised Code; a solid waste 33290
incineration or energy recovery facility subject to regulation 33291
under this chapter; a premises within the state where the scrap 33292
tires will be beneficially used; or a scrap tire storage, 33293
monocell, monofill, or recovery facility, any other solid waste 33294
disposal facility authorized to dispose of scrap tires, or a 33295
facility that will beneficially use the scrap tires, that is 33296
located in another state, and that is operating in compliance with 33297
the laws of the state in which the facility is located+ 33298

(2) The facility exclusively stores scrap tires in portable 33299
containers+ 33300

(3) The aggregate storage of the portable containers in which 33301
the scrap tires are stored does not exceed five thousand cubic 33302
feet. 33303

(BB) "Scrap tire monocell facility" means an individual site 33304
within a solid waste landfill that is used exclusively for the 33305
environmentally sound storage or disposal of whole scrap tires or 33306
scrap tires that have been shredded, chipped, or otherwise 33307
mechanically processed. 33308

(CC) "Scrap tire monofill facility" means an engineered 33309
facility used or intended to be used exclusively for the storage 33310
or disposal of scrap tires, including at least facilities for the 33311
submergence of whole scrap tires in a body of water. 33312

(DD) "Scrap tire recovery facility" means any facility, or 33313
portion thereof, for the processing of scrap tires for the purpose 33314
of extracting or producing usable products, materials, or energy 33315

from the scrap tires through a controlled combustion process, 33316
mechanical process, or chemical process. "Scrap tire recovery 33317
facility" includes any facility that uses the controlled 33318
combustion of scrap tires in a manufacturing process to produce 33319
process heat or steam or any facility that produces usable heat or 33320
electric power through the controlled combustion of scrap tires in 33321
combination with another fuel, but does not include any solid 33322
waste incineration or energy recovery facility that is designed, 33323
constructed, and used for the primary purpose of incinerating 33324
mixed municipal solid wastes and that burns scrap tires in 33325
conjunction with mixed municipal solid wastes, or any tire 33326
retreading business, tire manufacturing finishing center, or tire 33327
adjustment center having on the premises of the business a single, 33328
covered scrap tire storage area at which not more than four 33329
thousand scrap tires are stored. 33330

(EE) "Scrap tire storage facility" means any facility where 33331
whole scrap tires are stored prior to their transportation to a 33332
scrap tire monocell, monofill, or recovery facility licensed under 33333
section 3734.81 of the Revised Code; a solid waste incineration or 33334
energy recovery facility subject to regulation under this chapter; 33335
a premises within the state where the scrap tires will be 33336
beneficially used; or a scrap tire storage, monocell, monofill, or 33337
recovery facility, any other solid waste disposal facility 33338
authorized to dispose of scrap tires, or a facility that will 33339
beneficially use the scrap tires, that is located in another 33340
state, and that is operating in compliance with the laws of the 33341
state in which the facility is located. 33342

(FF) "Used oil" means any oil that has been refined from 33343
crude oil, or any synthetic oil, that has been used and, as a 33344
result of that use, is contaminated by physical or chemical 33345
impurities. "Used oil" includes only those substances identified 33346
as used oil by the United States environmental protection agency 33347

under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 33348
U.S.C.A. 6901a, as amended. 33349

(GG) "Accumulated speculatively" has the same meaning as in 33350
rules adopted by the director under section 3734.12 of the Revised 33351
Code. 33352

Sec. 3734.20. (A) If the director of environmental protection 33353
has reason to believe that hazardous waste was treated, stored, or 33354
disposed of at any location within the state, ~~he~~ the director may 33355
conduct such investigations and make such inquiries, including 33356
obtaining samples and examining and copying records, as are 33357
reasonable or necessary to determine if conditions at a hazardous 33358
waste facility, solid waste facility, or other location where the 33359
director has reason to believe hazardous waste was treated, 33360
stored, or disposed of constitute a substantial threat to public 33361
health or safety or are causing or contributing to or threatening 33362
to cause or contribute to air or water pollution or soil 33363
contamination. The director or the director's authorized 33364
representative may apply for, and any judge of a court of common 33365
pleas shall issue, an appropriate search warrant necessary to 33366
achieve the purposes of this section within the court's 33367
territorial jurisdiction. The director may expend moneys from the 33368
hazardous waste clean-up fund created in section 3734.28 of the 33369
Revised Code or the environmental protection remediation fund 33370
created in section 3734.281 of the Revised Code for conducting 33371
investigations under this section. 33372

(B) If the director determines that conditions at a hazardous 33373
waste facility, solid waste facility, or other location where 33374
hazardous waste was treated, stored, or disposed of constitute a 33375
substantial threat to public health or safety or are causing or 33376
contributing to or threatening to cause or contribute to air or 33377
water pollution or soil contamination, the director shall initiate 33378

appropriate action under this chapter or Chapter 3704. or 6111. of 33379
the Revised Code or seek any other appropriate legal or equitable 33380
remedies to abate the pollution or contamination or to protect 33381
public health or safety. 33382

If an order of the director to abate or prevent air or water 33383
pollution or soil contamination or to remedy a threat to public 33384
health or safety caused by conditions at such a facility issued 33385
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 33386
Code is not wholly complied with within the time prescribed in the 33387
order, the director may, through officers or employees of the 33388
environmental protection agency or through contractors employed 33389
for that purpose in accordance with the bidding procedure 33390
established in division (C) of section 3734.23 of the Revised 33391
Code, enter upon the facility and perform those measures necessary 33392
to abate or prevent air or water pollution or soil contamination 33393
from the facility or to protect public health or safety, 33394
including, but not limited to, measures prescribed in division (B) 33395
of section 3734.23 of the Revised Code. The director shall keep an 33396
itemized record of the cost of the investigation and measures 33397
performed, including costs for labor, materials, and any contract 33398
services required. Upon completion of the investigation or 33399
measures, the director shall record the cost of performing those 33400
measures at the office of the county recorder of the county in 33401
which the facility is located. The cost so recorded constitutes a 33402
lien against the property on which the facility is located until 33403
discharged. Upon written request of the director, the attorney 33404
general shall institute a civil action to recover the cost. Any 33405
moneys so received shall be credited to the hazardous waste 33406
clean-up fund ~~created in section 3734.28 of the Revised Code or~~ 33407
the environmental protection remediation fund, as applicable. 33408

When entering upon a facility under this division, the 33409
director shall perform or cause to be performed only those 33410

measures necessary to abate or prevent air or water pollution or 33411
soil contamination caused by conditions at the facility or to 33412
abate threats to public health or safety caused by conditions at 33413
the facility. For this purpose the director may expend moneys from 33414
~~the~~ either fund and may expend moneys from loans from the Ohio 33415
water development authority to the environmental protection agency 33416
that pledge moneys from ~~the~~ either fund for the repayment of and 33417
for the interest on such loans. 33418

Sec. 3734.21. (A) The director of environmental protection 33419
may expend moneys credited to the hazardous waste clean-up fund 33420
created in section 3734.28 of the Revised Code or the 33421
environmental protection remediation fund created in section 33422
3734.281 of the Revised Code for the payment of the cost of 33423
measures necessary for the proper closure of hazardous waste 33424
facilities or any solid waste facilities containing significant 33425
quantities of hazardous waste, for the payment of costs of the 33426
development and construction of suitable hazardous waste 33427
facilities required by division (B) of section 3734.23 of the 33428
Revised Code to the extent the director determines that such 33429
facilities are not available, and for the payment of costs that 33430
are necessary to abate conditions thereon that are causing or 33431
contributing to or threatening to cause or contribute to air or 33432
water pollution or soil contamination or that constitute a 33433
substantial threat to public health or safety. In addition, the 33434
director may expend and pledge moneys credited to ~~the~~ either fund 33435
for repayment of and for interest on any loan made by the Ohio 33436
water development authority to the environmental protection agency 33437
for the payment of such costs. 33438

(B) Before beginning to clean up any facility under this 33439
section, the director shall develop a plan for the cleanup and an 33440
estimate of the cost thereof. The plan shall include only those 33441

measures necessary to abate conditions thereon that are causing or 33442
contributing to or threatening to cause or contribute to air or 33443
water pollution or soil contamination or that constitute a 33444
substantial threat to public health or safety, including, but not 33445
limited to, establishment and maintenance of an adequate cover of 33446
soil and vegetation on any facility for the burial of hazardous 33447
waste to prevent the infiltration of water into cells where 33448
hazardous waste is buried, the accumulation or runoff of 33449
contaminated surface water, the production of leachate, and air 33450
emissions of hazardous waste; the collection and treatment of 33451
contaminated surface water runoff; the collection and treatment of 33452
leachate; or, if conditions so require, the removal of hazardous 33453
waste from the facility and the treatment or disposal of the waste 33454
at a suitable hazardous waste facility. The plan or any part of 33455
the plan for the cleanup of the facility shall be carried out by 33456
entering into contracts therefor in accordance with the procedures 33457
established in division (C) of section 3734.23 of the Revised 33458
Code. 33459

Sec. 3734.22. Before beginning to clean up any facility under 33460
section 3734.21 of the Revised Code, the director of environmental 33461
protection shall endeavor to enter into an agreement with the 33462
owner of the land on which the facility is located, or with the 33463
owner of the facility, specifying the measures to be performed and 33464
authorizing the director, employees of the agency, or contractors 33465
retained by the director to enter upon the land and perform the 33466
specified measures. 33467

Each agreement ~~shall~~ may contain provisions for the 33468
reimbursement of the state for the costs of the cleanup. 33469

All reimbursements and payments shall be credited to the 33470
hazardous waste clean-up fund created in section 3734.28 of the 33471
Revised Code or the environmental protection remediation fund 33472

created in section 3734.281 of the Revised Code, as applicable. 33473

The agreement may require the owner to execute an easement 33474
whereby the director, an authorized employee of the agency, or a 33475
contractor employed by the agency in accordance with the bidding 33476
procedure established in division (C) of section 3734.23 of the 33477
Revised Code may enter upon the facility to sample, repair, or 33478
reconstruct air and water quality monitoring equipment constructed 33479
under the agreement. Such easements shall be for a specified 33480
period of years and may be extinguished by agreement between the 33481
owner and the director. When necessary to protect the public 33482
health or safety, the agreement may require the owner to enter 33483
into an environmental covenant with the director in accordance 33484
with sections 5301.80 to 5301.92 of the Revised Code. 33485

Upon a breach of the reimbursement provisions of the 33486
agreement by the owner of the land or facility, or upon 33487
notification to the director by the owner that the owner is unable 33488
to perform the duties under the reimbursement provisions of the 33489
agreement, the director ~~shall~~ may record the unreimbursed portion 33490
of the costs of cleanup at the office of the county recorder of 33491
the county in which the facility is located. The costs so recorded 33492
constitute a lien against the property on which the facility is 33493
located until discharged. Upon written request of the director, 33494
the attorney general shall institute a civil action to recover the 33495
unreimbursed portion of the costs of cleanup. Any moneys so 33496
recovered shall be credited to the hazardous waste clean-up fund 33497
or the environmental protection remediation fund, as applicable. 33498

Sec. 3734.23. (A) The director of environmental protection 33499
may acquire by purchase, gift, donation, contribution, or 33500
appropriation in accordance with sections 163.01 to 163.21 of the 33501
Revised Code any hazardous waste facility or any solid waste 33502
facility containing significant quantities of hazardous waste 33503

that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~the~~ either fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. After performing these measures, the

director shall provide for the post-closure care, maintenance, and 33537
monitoring of facilities cleaned up under this section. 33538

(C) Before proceeding to clean up any facility under this 33539
section or section 3734.20 or 3734.21 of the Revised Code, the 33540
director shall develop a plan for the cleanup of the facility and 33541
an estimate of the cost thereof. The director may carry out the 33542
plan or any part of the plan by contracting for the services, 33543
construction, and repair necessary therefor. The director shall 33544
award each such contract to the lowest responsible bidder after 33545
sealed bids therefor are received, opened, and published at the 33546
time fixed by the director and notice of the time and place at 33547
which the sealed bids will be received, opened, and published has 33548
been published by the director in a newspaper of general 33549
circulation in the county in which the facility to be cleaned up 33550
under the contract is located at least once within the ten days 33551
before the opening of the bids. However, if after advertising for 33552
bids for the contract, no bids are received by the director at the 33553
time and place fixed for receiving them, the director may 33554
advertise again for bids, or ~~he~~ the director may, if ~~he~~ the 33555
director considers the public interest will best be served 33556
thereby, enter into a contract for the cleanup of the facility 33557
without further advertisement for bids. The director may reject 33558
any or all bids received and fix and publish again notice of the 33559
time and place at which bids for the contracts will be received, 33560
opened, and published. 33561

(D) The director shall keep an itemized record of the costs 33562
of any acquisition under division (A) of this section and the 33563
costs of cleanup under division (B) of this section. 33564

Sec. 3734.28. All moneys collected under sections 3734.122, 33565
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 33566
Code and natural resource damages collected by the state under the 33567

"Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, any moneys recovered for costs paid from the fund for activities described in division (A)(1) and (2) of section 3745.12 of the Revised Code shall be credited to the fund. The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, and, through October 15, 2005, divisions (A)(1) and (2) of section 3745.12 and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "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 33600
providing financial assistance for cleaning up, any hazardous 33601
waste facility or solid waste facility containing significant 33602
quantities of hazardous waste, that constitutes an imminent and 33603
substantial threat to public health or safety or the environment; 33604
and, from July 1, 2003, through June 30, 2006, for the purposes of 33605
paying the costs of administering and enforcing the laws 33606
pertaining to solid wastes, infectious wastes, and construction 33607
and demolition debris, including, without limitation, ground water 33608
evaluations related to solid wastes, infectious wastes, and 33609
construction and demolition debris, under this chapter and Chapter 33610
3714. of the Revised Code and any rules adopted under them, and 33611
paying a share of the administrative costs of the environmental 33612
protection agency pursuant to section 3745.014 of the Revised 33613
Code, the The following fees are hereby levied on the disposal of 33614
solid wastes in this state: 33615~~

~~(1) One dollar per ton ~~on and after July 1, 1993, one-half of~~ 33616
the proceeds of which shall be deposited in the state treasury to 33617
the credit of the hazardous waste facility management fund created 33618
in section 3734.18 of the Revised Code and one-half of the 33619
proceeds of which shall be deposited in the state treasury to the 33620
credit of the hazardous waste clean-up fund created in section 33621
3734.28 of the Revised Code; 33622~~

~~(2) An additional one dollar per ton on and after July 1, 33623
2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be 33624
deposited in the state treasury to the credit of the solid waste 33625
fund, which is hereby created. The environmental protection agency 33626
shall use money in the solid waste fund to pay the costs of 33627
administering and enforcing the laws pertaining to solid wastes, 33628
infectious wastes, and construction and demolition debris, 33629
including, without limitation, ground water evaluations related to 33630
solid wastes, infectious wastes, and construction and demolition 33631~~

debris, under this chapter and Chapter 3714. of the Revised Code 33632
and any rules adopted under them, providing compliance assistance 33633
to small businesses, and paying a share of the administrative 33634
costs of the environmental protection agency pursuant to section 33635
3745.014 of the Revised Code. 33636

(3) An additional one dollar and fifty cents per ton on and 33637
after July 1, 2005, the proceeds of which shall be deposited in 33638
the state treasury to the credit of the environmental protection 33639
fund created in section 3745.015 of the Revised Code. 33640

In the case of solid wastes that are taken to a solid waste 33641
transfer facility prior to being transported to a solid waste 33642
disposal facility for disposal, the fees levied under this 33643
division shall be collected by the owner or operator of the 33644
transfer facility as a trustee for the state. In the case of solid 33645
wastes that are not taken to a solid waste transfer facility prior 33646
to being transported to a solid waste disposal facility, the fees 33647
shall be collected by the owner or operator of the solid waste 33648
disposal facility as a trustee for the state. Fees levied under 33649
this division do not apply to materials separated from a mixed 33650
waste stream for recycling by a generator or materials removed 33651
from the solid waste stream through recycling, as "recycling" is 33652
defined in rules adopted under section 3734.02 of the Revised 33653
Code. 33654

The owner or operator of a solid waste transfer facility or 33655
disposal facility shall collect the fees levied under this 33656
division as a trustee for the state and, as applicable, shall 33657
prepare and file with the director of environmental protection 33658
monthly returns each month a return indicating the total tonnage 33659
of solid wastes received ~~for disposal at the gate of the facility~~ 33660
during that month and the total amount of the fees required to be 33661
collected under this division during that month. The amount of 33662
fees required to be collected under this division shall equal the 33663

total tonnage of solid wastes received at the facility multiplied 33664
by the fees levied under this division. The monthly returns shall 33665
be filed on a form prescribed by the director. Not later than 33666
thirty days after the last day of the month to which ~~such~~ a return 33667
applies, the owner or operator shall mail to the director the 33668
return for that month together with the fees required to be 33669
collected under this division during that month as indicated on 33670
the return. ~~The~~ If the return is filed and the amount of the fees 33671
due is paid in a timely manner as required in this division, the 33672
owner or operator may retain a discount of three-fourths of one 33673
per cent of the total amount of the fees that are required to be 33674
paid as indicated on the return. 33675

The owner or operator may request an extension of not more 33676
than thirty days for filing the return and remitting the fees, 33677
provided that the owner or operator has submitted such a request 33678
in writing to the director together with a detailed description of 33679
why the extension is requested, the director has received the 33680
request not later than the day on which the return is required to 33681
be filed, and the director has approved the request. If the fees 33682
are not remitted within thirty days after the last day of the 33683
month ~~during which they were collected to which the return applies~~ 33684
or are not remitted by the last day of an extension approved by 33685
the director, the owner or operator shall not retain the 33686
three-fourths of one per cent discount and shall pay an additional 33687
~~fifty~~ ten per cent of the amount of the fees for each month that 33688
they are late. For purposes of calculating the late fee, the first 33689
month in which fees are late begins on the first day after the 33690
deadline has passed for timely submitting the return and fees, and 33691
one additional month shall be counted every thirty days 33692
thereafter. 33693

~~One half of the moneys remitted to the director under~~ 33694
~~division (A)(1) of this section shall be credited to the hazardous~~ 33695

~~waste facility management fund created in section 3734.18 of the
Revised Code, and one half shall be credited to the hazardous
waste clean-up fund created in section 3734.28 of the Revised
Code. The moneys remitted to the director under division (A)(2) of
this section shall be credited to the solid waste fund, which is
hereby created in the state treasury. The environmental protection
agency shall use moneys in the solid waste fund only 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 rules adopted under them and to pay a share of the
administrative costs of the environmental protection agency
pursuant to section 3745.014 of the Revised Code.~~

For purposes of computing the fees levied under this division
or division (B) of this section, any solid waste transfer or
disposal facility that does not use scales as a means of
determining gate receipts shall use a conversion factor of three
cubic yards per ton of solid waste or one cubic yard per ton for
baled waste, as applicable.

The fees levied under this division and divisions (B) and (C)
of this section are in addition to all other applicable fees and
taxes and shall be added to any other fee or amount specified in a
contract that is charged by the owner or operator of a solid waste
transfer or disposal facility or to any other fee or amount that
is specified in a contract ~~entered into on or after March 4, 1992,~~
and that is charged by a transporter of solid wastes.

(B) ~~For the purpose of preparing, revising, and implementing
the solid waste management plan of the county or joint solid waste
management district, including, without limitation, the
development and implementation of solid waste recycling or~~

~~reduction programs; providing financial assistance to boards of 33728~~
~~health within the district, if solid waste facilities are located 33729~~
~~within the district, for the enforcement of this chapter and rules 33730~~
~~adopted and orders and terms and conditions of permits, licenses, 33731~~
~~and variances issued under it, other than the hazardous waste 33732~~
~~provisions of this chapter and rules adopted and orders and terms 33733~~
~~and conditions of permits issued under those provisions; providing 33734~~
~~financial assistance to the county to defray the added costs of 33735~~
~~maintaining roads and other public facilities and of providing 33736~~
~~emergency and other public services resulting from the location 33737~~
~~and operation of a solid waste facility within the county under 33738~~
~~the district's approved solid waste management plan; paying the 33739~~
~~costs incurred by boards of health for collecting and analyzing 33740~~
~~water samples from public or private wells on lands adjacent to 33741~~
~~solid waste facilities that are contained in the approved or 33742~~
~~amended plan of the district; paying the costs of developing and 33743~~
~~implementing a program for the inspection of solid wastes 33744~~
~~generated outside the boundaries of this state that are disposed 33745~~
~~of at solid waste facilities included in the district's approved 33746~~
~~solid waste management plan or amended plan; providing financial 33747~~
~~assistance to boards of health within the district for enforcing 33748~~
~~laws prohibiting open dumping; providing financial assistance to 33749~~
~~local law enforcement agencies within the district for enforcing 33750~~
~~laws and ordinances prohibiting littering; providing financial 33751~~
~~assistance to boards of health of health districts within the 33752~~
~~district that are on the approved list under section 3734.08 of 33753~~
~~the Revised Code for the training and certification required for 33754~~
~~their employees responsible for solid waste enforcement by rules 33755~~
~~adopted under division (L) of section 3734.02 of the Revised Code; 33756~~
~~providing financial assistance to individual municipal 33757~~
~~corporations and townships within the district to defray their 33758~~
~~added costs of maintaining roads and other public facilities and 33759~~
~~of providing emergency and other public services resulting from 33760~~

~~the location and operation within their boundaries of a~~ 33761
~~composting, energy or resource recovery, incineration, or~~ 33762
~~recycling facility that either is owned by the district or is~~ 33763
~~furnishing solid waste management facility or recycling services~~ 33764
~~to the district pursuant to a contract or agreement with the board~~ 33765
~~of county commissioners or directors of the district; and payment~~ 33766
~~of any expenses that are agreed to, awarded, or ordered to be paid~~ 33767
~~under section 3734.35 of the Revised Code and of any~~ 33768
~~administrative costs incurred pursuant to that section~~ purposes 33769
specified in division (G) of this section, the solid waste 33770
management policy committee of a county or joint solid waste 33771
management district may levy fees upon the following activities: 33772

(1) The disposal at a solid waste disposal facility located 33773
in the district of solid wastes generated within the district; 33774

(2) The disposal at a solid waste disposal facility within 33775
the district of solid wastes generated outside the boundaries of 33776
the district, but inside this state; 33777

(3) The disposal at a solid waste disposal facility within 33778
the district of solid wastes generated outside the boundaries of 33779
this state. 33780

~~If any such fees are levied prior to January 1, 1994, fees~~ 33781
Fees levied under division (B)(1) of this section always shall be 33782
equal to one-half of the fees levied under division (B)(2) of this 33783
section, and fees levied under division (B)(3) of this section, 33784
~~which shall be in addition to fees levied under division (B)(2) of~~ 33785
~~this section,~~ always shall be equal to fees levied under division 33786
(B)(1) of this section, ~~except as otherwise provided in this~~ 33787
~~division.~~ The solid waste management plan of the county or joint 33788
district approved under section 3734.521 or 3734.55 of the Revised 33789
Code and any amendments to it, or the resolution adopted under 33790
this division, as appropriate, shall establish the rates of the 33791
fees levied under divisions (B)(1), (2), and (3) of this section, 33792

if any, and shall specify whether the fees are levied on the basis 33793
of tons or cubic yards as the unit of measurement. Although the 33794
~~fees under divisions (A)(1) and (2) of this section are levied on~~ 33795
~~the basis of tons as the unit of measurement, the A solid waste~~ 33796
~~management plan of the district and any amendments to it or the~~ 33797
~~solid waste management policy committee in its resolution levying~~ 33798
~~fees under this division may direct that the levies fees levied~~ 33799
~~under those divisions be levied this division on the basis of~~ 33800
~~cubic yards as the unit of measurement based upon a conversion~~ 33801
~~factor of three cubic yards per ton generally or one cubic yard~~ 33802
~~per ton for baled wastes if the fees under divisions (B)(1) to (3)~~ 33803
~~of this section are being levied on the basis of cubic yards as~~ 33804
~~the unit of measurement under the plan, amended plan, or~~ 33805
~~resolution shall do so in accordance with division (A) of this~~ 33806
~~section.~~ 33807

~~On and after January 1, 1994, the The fee levied under~~ 33808
~~division (B)(1) of this section shall be not less than one dollar~~ 33809
~~per ton nor more than two dollars per ton, the fee levied under~~ 33810
~~division (B)(2) of this section shall be not less than two dollars~~ 33811
~~per ton nor more than four dollars per ton, and the fee levied~~ 33812
~~under division (B)(3) of this section shall be not more than the~~ 33813
~~fee levied under division (B)(1) of this section, ~~except as~~~~ 33814
~~otherwise provided in this division and notwithstanding any~~ 33815
~~schedule of those fees established in the solid waste management~~ 33816
~~plan of a county or joint district approved under section 3734.55~~ 33817
~~of the Revised Code or a resolution adopted and ratified under~~ 33818
~~this division that is in effect on that date. If the fee that a~~ 33819
~~district is levying under division (B)(1) of this section on that~~ 33820
~~date under its approved plan or such a resolution is less than one~~ 33821
~~dollar per ton, the fee shall be one dollar per ton on and after~~ 33822
~~January 1, 1994, and if the fee that a district is so levying~~ 33823
~~under that division exceeds two dollars per ton, the fee shall be~~ 33824
~~two dollars per ton on and after that date. If the fee that a~~ 33825

~~district is so levying under division (B)(2) of this section is 33826
less than two dollars per ton, the fee shall be two dollars per 33827
ton on and after that date, and if the fee that the district is so 33828
levying under that division exceeds four dollars per ton, the fee 33829
shall be four dollars per ton on and after that date. On that 33830
date, the fee levied by a district under division (B)(3) of this 33831
section shall be equal to the fee levied under division (B)(1) of 33832
this section. Except as otherwise provided in this division, the 33833
fees established by the operation of this amendment shall remain 33834
in effect until the district's resolution levying fees under this 33835
division is amended or repealed in accordance with this division 33836
to amend or abolish the schedule of fees, the schedule of fees is 33837
amended or abolished in an amended plan of the district approved 33838
under section 3734.521 or division (A) or (D) of section 3734.56 33839
of the Revised Code, or the schedule of fees is amended or 33840
abolished through an amendment to the district's plan under 33841
division (E) of section 3734.56 of the Revised Code; the 33842
notification of the amendment or abolishment of the fees has been 33843
given in accordance with this division; and collection of the 33844
amended fees so established commences, or collection of the fees 33845
ceases, in accordance with this division. 33846~~

~~The solid waste management policy committee of a district 33847
levying fees under divisions (B)(1) to (3) of this section on 33848
October 29, 1993, under its solid waste management plan approved 33849
under section 3734.55 of the Revised Code or a resolution adopted 33850
and ratified under this division that are within the ranges of 33851
rates prescribed by this amendment, by adoption of a resolution 33852
not later than December 1, 1993, and without the necessity for 33853
ratification of the resolution under this division, may amend 33854
those fees within the prescribed ranges, provided that the 33855
estimated revenues from the amended fees will not substantially 33856
exceed the estimated revenues set forth in the district's budget 33857
for calendar year 1994. Not later than seven days after the 33858~~

~~adoption of such a resolution, the committee shall notify by
certified mail the owner or operator of each solid waste disposal
facility that is required to collect the fees of the adoption of
the resolution and of the amount of the amended fees. Collection
of the amended fees shall take effect on the first day of the
first month following the month in which the notification is sent
to the owner or operator. The fees established in such a
resolution shall remain in effect until the district's resolution
levying fees that was adopted and ratified under this division is
amended or repealed, and the amendment or repeal of the resolution
is ratified, in accordance with this division, to amend or abolish
the fees, the schedule of fees is amended or abolished in an
amended plan of the district approved under section 3734.521 or
division (A) or (D) of section 3734.56 of the Revised Code, or the
schedule of fees is amended or abolished through an amendment to
the district's plan under division (E) of section 3734.56 of the
Revised Code; the notification of the amendment or abolishment of
the fees has been given in accordance with this division; and
collection of the amended fees so established commences, or
collection of the fees ceases, in accordance with this division.~~

Prior to the approval of the solid waste management plan of
the a district under section 3734.55 of the Revised Code, the
solid waste management policy committee of a district may levy
fees under this division by adopting a resolution establishing the
proposed amount of the fees. Upon adopting the resolution, the
committee shall deliver a copy of the resolution to the board of
county commissioners of each county forming the district and to
the legislative authority of each municipal corporation and
township under the jurisdiction of the district and shall prepare
and publish the resolution and a notice of the time and location
where a public hearing on the fees will be held. Upon adopting the
resolution, the committee shall deliver written notice of the

adoption of the resolution; of the amount of the proposed fees; 33891
and of the date, time, and location of the public hearing to the 33892
director and to the fifty industrial, commercial, or institutional 33893
generators of solid wastes within the district that generate the 33894
largest quantities of solid wastes, as determined by the 33895
committee, and to their local trade associations. The committee 33896
shall make good faith efforts to identify those generators within 33897
the district and their local trade associations, but the 33898
nonprovision of notice under this division to a particular 33899
generator or local trade association does not invalidate the 33900
proceedings under this division. The publication shall occur at 33901
least thirty days before the hearing. After the hearing, the 33902
committee may make such revisions to the proposed fees as it 33903
considers appropriate and thereafter, by resolution, shall adopt 33904
the revised fee schedule. Upon adopting the revised fee schedule, 33905
the committee shall deliver a copy of the resolution doing so to 33906
the board of county commissioners of each county forming the 33907
district and to the legislative authority of each municipal 33908
corporation and township under the jurisdiction of the district. 33909
Within sixty days after the delivery of a copy of the resolution 33910
adopting the proposed revised fees by the policy committee, each 33911
such board and legislative authority, by ordinance or resolution, 33912
shall approve or disapprove the revised fees and deliver a copy of 33913
the ordinance or resolution to the committee. If any such board or 33914
legislative authority fails to adopt and deliver to the policy 33915
committee an ordinance or resolution approving or disapproving the 33916
revised fees within sixty days after the policy committee 33917
delivered its resolution adopting the proposed revised fees, it 33918
shall be conclusively presumed that the board or legislative 33919
authority has approved the proposed revised fees. The committee 33920
shall determine if the resolution has been ratified in the same 33921
manner in which it determines if a draft solid waste management 33922
plan has been ratified under division (B) of section 3734.55 of 33923

the Revised Code. 33924

~~In the case of a county district or a joint district formed 33925
by two or three counties, the committee shall declare the proposed 33926
revised fees to be ratified as the fee schedule of the district 33927
upon determining that the board of county commissioners of each 33928
county forming the district has approved the proposed revised fees 33929
and that the legislative authorities of a combination of municipal 33930
corporations and townships with a combined population within the 33931
district comprising at least sixty per cent of the total 33932
population of the district have approved the proposed revised 33933
fees, provided that in the case of a county district, that 33934
combination shall include the municipal corporation having the 33935
largest population within the boundaries of the district, and 33936
provided further that in the case of a joint district formed by 33937
two or three counties, that combination shall include for each 33938
county forming the joint district the municipal corporation having 33939
the largest population within the boundaries of both the county in 33940
which the municipal corporation is located and the joint district. 33941
In the case of a joint district formed by four or more counties, 33942
the committee shall declare the proposed revised fees to be 33943
ratified as the fee schedule of the joint district upon 33944
determining that the boards of county commissioners of a majority 33945
of the counties forming the district have approved the proposed 33946
revised fees; that, in each of a majority of the counties forming 33947
the joint district, the proposed revised fees have been approved 33948
by the municipal corporation having the largest population within 33949
the county and the joint district; and that the legislative 33950
authorities of a combination of municipal corporations and 33951
townships with a combined population within the joint district 33952
comprising at least sixty per cent of the total population of the 33953
joint district have approved the proposed revised fees. 33954~~

~~For the purposes of this division, only the population of the 33955~~

~~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 a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees ~~or amended fees~~ to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees ~~or amended fees ratified on or after March 24, 1992,~~ shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

~~Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the repeal. Collection of the fees shall cease on the first day of the~~

~~second month following the month in which notification is sent to
the owner or operator.~~ 33988
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Fees levied under this division also may be established,
amended, or repealed by a solid waste management policy committee
through the adoption of a new district solid waste management
plan, the adoption of an amended plan, or the amendment of the
plan or amended plan in accordance with sections 3734.55 and
3734.56 of the Revised Code or the adoption or amendment of a
district plan in connection with a change in district composition
under section 3734.521 of the Revised Code. 33990
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Not later than fourteen days after the director issues an 33998
order approving a district's solid waste management plan ~~under~~ 33999
~~section 3734.55 of the Revised Code or,~~ amended plan under 34000
~~division (A) or (D) of section 3734.56 of the Revised Code, or~~ 34001
amendment to a plan or amended plan that establishes or, amends, 34002
or repeals a schedule of fees levied by the district, ~~or the~~ 34003
~~ratification of an amendment to the district's approved plan or~~ 34004
~~amended plan under division (E) of section 3734.56 of the Revised~~ 34005
~~Code that establishes or amends a schedule of fees, as~~ 34006
~~appropriate,~~ the committee shall notify by certified mail the 34007
owner or operator of each solid waste disposal facility that is 34008
required to collect the fees of the approval of the plan or 34009
amended plan, or the amendment to the plan, as appropriate, and 34010
the amount of the fees ~~or amended fees, if any.~~ In the case of an 34011
initial or amended plan approved under section 3734.521 of the 34012
Revised Code in connection with a change in district composition, 34013
other than one involving the withdrawal of a county from a joint 34014
district, ~~that establishes or amends a schedule of fees levied~~ 34015
~~under divisions (B)(1) to (3) of this section by a district~~ 34016
~~resulting from the change,~~ the committee, within fourteen days 34017
after the change takes effect pursuant to division (G) of that 34018
section, shall notify by certified mail the owner or operator of 34019

each solid waste disposal facility that is required to collect the 34020
fees that the change has taken effect and of the amount of the 34021
fees ~~or amended fees, if any~~. Collection of any fees ~~set forth in~~ 34022
~~a plan or amended plan approved by the director on or after April~~ 34023
~~16, 1993, or an amendment of a plan or amended plan under division~~ 34024
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 34025
~~after April 16, 1993,~~ shall commence or collection of repealed 34026
fees shall cease on the first day of the second month following 34027
the month in which notification is sent to the owner or operator. 34028

~~Not later than fourteen days after the director issues an~~ 34029
~~order approving a district's plan under section 3734.55 of the~~ 34030
~~Revised Code or amended plan under division (A) or (D) of section~~ 34031
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 34032
~~levied under divisions (B)(1) to (3) of this section, or an~~ 34033
~~amendment to the district's approved plan or amended plan~~ 34034
~~abolishing the schedule of fees is ratified pursuant to division~~ 34035
~~(E) of section 3734.56 of the Revised Code, as appropriate, the~~ 34036
~~committee shall notify by certified mail the owner or operator of~~ 34037
~~each facility that is collecting the fees of the approval of the~~ 34038
~~plan or amended plan, or the amendment of the plan or amended~~ 34039
~~plan, as appropriate, and the abolishment of the fees. In the case~~ 34040
~~of an initial or amended plan approved under section 3734.521 of~~ 34041
~~the Revised Code in connection with a change in district~~ 34042
~~composition, other than one involving the withdrawal of a county~~ 34043
~~from a joint district, that abolishes the schedule of fees levied~~ 34044
~~under divisions (B)(1) to (3) of this section by a district~~ 34045
~~resulting from the change, the committee, within fourteen days~~ 34046
~~after the change takes effect pursuant to division (G) of that~~ 34047
~~section, shall notify by certified mail the owner or operator of~~ 34048
~~each solid waste disposal facility that is required to collect the~~ 34049
~~fees that the change has taken effect and of the abolishment of~~ 34050
~~the fees. Collection of the fees shall cease on the first day of~~ 34051
~~the second month following the month in which notification is sent~~ 34052

~~to the owner or operator.~~ 34053

~~Except as otherwise provided in this division, if the~~ 34054
~~schedule of fees that a district is levying under divisions (B)(1)~~ 34055
~~to (3) of this section pursuant to a resolution or amended~~ 34056
~~resolution adopted and ratified under this division, the solid~~ 34057
~~waste management plan of the district approved under section~~ 34058
~~3734.55 of the Revised Code, an amended plan approved under~~ 34059
~~division (A) or (D) of section 3734.56 of the Revised Code, or an~~ 34060
~~amendment to the district's approved plan or amended plan under~~ 34061
~~division (E) of section 3734.56 of the Revised Code, is amended by~~ 34062
~~the adoption and ratification of an amendment to the resolution or~~ 34063
~~amended resolution or an amendment of the district's approved plan~~ 34064
~~or amended plan, the fees in effect immediately prior to the~~ 34065
~~approval of the plan or the amendment of the resolution, amended~~ 34066
~~resolution, plan, or amended plan, as appropriate, shall continue~~ 34067
~~to be collected until collection of the amended fees commences~~ 34068
~~pursuant to this division.~~ 34069

If, in the case of a change in district composition involving 34070
the withdrawal of a county from a joint district, the director 34071
completes the actions required under division (G)(1) or (3) of 34072
section 3734.521 of the Revised Code, as appropriate, forty-five 34073
days or more before the beginning of a calendar year, the policy 34074
committee of each of the districts resulting from the change that 34075
obtained the director's approval of an initial or amended plan in 34076
connection with the change, within fourteen days after the 34077
director's completion of the required actions, shall notify by 34078
certified mail the owner or operator of each solid waste disposal 34079
facility that is required to collect the district's fees that the 34080
change is to take effect on the first day of January immediately 34081
following the issuance of the notice and of the amount of the fees 34082
or amended fees levied under divisions (B)(1) to (3) of this 34083
section pursuant to the district's initial or amended plan as so 34084

approved or, if appropriate, the ~~abolishment~~ repeal of the 34085
district's fees by that initial or amended plan. Collection of any 34086
fees set forth in such a plan or amended plan shall commence on 34087
the first day of January immediately following the issuance of the 34088
notice. If such an initial or amended plan ~~abolishes~~ repeals a 34089
schedule of fees, collection of the fees shall cease on that first 34090
day of January. 34091

If, in the case of a change in district composition involving 34092
the withdrawal of a county from a joint district, the director 34093
completes the actions required under division (G)(1) or (3) of 34094
section 3734.521 of the Revised Code, as appropriate, less than 34095
forty-five days before the beginning of a calendar year, the 34096
director, on behalf of each of the districts resulting from the 34097
change that obtained the director's approval of an initial or 34098
amended plan in connection with the change proceedings, shall 34099
notify by certified mail the owner or operator of each solid waste 34100
disposal facility that is required to collect the district's fees 34101
that the change is to take effect on the first day of January 34102
immediately following the mailing of the notice and of the amount 34103
of the fees or amended fees levied under divisions (B)(1) to (3) 34104
of this section pursuant to the district's initial or amended plan 34105
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 34106
district's fees by that initial or amended plan. Collection of any 34107
fees set forth in such a plan or amended plan shall commence on 34108
the first day of the second month following the month in which 34109
notification is sent to the owner or operator. If such an initial 34110
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 34111
of the fees shall cease on the first day of the second month 34112
following the month in which notification is sent to the owner or 34113
operator. 34114

~~If the schedule of fees that a solid waste management~~ 34115
district is levying under divisions (B)(1) to (3) of this section 34116

is amended or repealed, the fees in effect immediately prior to 34117
the amendment or repeal shall continue to be collected until 34118
collection of the amended fees commences or collection of the 34119
repealed fees ceases, as applicable, as specified in this 34120
division. In the case of a change in district composition, ~~the~~ 34121
~~schedule of fees that the former districts that existed prior to~~ 34122
~~the change were levying under divisions (B)(1) to (3) of this~~ 34123
~~section pursuant to a resolution or amended resolution adopted and~~ 34124
~~ratified under this division, the solid waste management plan of a~~ 34125
~~former district approved under section 3734.521 or 3734.55 of the~~ 34126
~~Revised Code, an amended plan approved under section 3734.521 or~~ 34127
~~division (A) or (D) of section 3734.56 of the Revised Code, or an~~ 34128
~~amendment to a former district's approved plan or amended plan~~ 34129
~~under division (E) of section 3734.56 of the Revised Code, and~~ 34130
~~that were in effect on the date that the director completed the~~ 34131
~~actions required under division (G)(1) or (3) of section 3734.521~~ 34132
~~of the Revised Code shall continue to be collected until the~~ 34133
~~collection of the fees or amended fees of the districts resulting~~ 34134
~~from the change is required to commence, or if an initial or~~ 34135
~~amended plan of a resulting district abolishes a schedule of fees,~~ 34136
~~collection of the fees is required to cease, under this division.~~ 34137
~~Moneys~~ money so received from the collection of the fees of the 34138
former districts shall be divided among the resulting districts in 34139
accordance with division (B) of section 343.012 of the Revised 34140
Code and the agreements entered into under division (B) of section 34141
343.01 of the Revised Code to establish the former and resulting 34142
districts and any amendments to those agreements. 34143

For the purposes of the provisions of division (B) of this 34144
section establishing the times when newly established or amended 34145
fees levied by a district are required to commence and the 34146
collection of fees that have been amended or ~~abolished~~ repealed is 34147
required to cease, "fees" or "schedule of fees" includes, in 34148
addition to fees levied under divisions (B)(1) to (3) of this 34149

section, those levied under section 3734.573 or 3734.574 of the Revised Code. 34150
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(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated. 34152
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The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that 34165
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the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist

of scrap tires, are burned in a disposal facility that is an 34213
incinerator or energy recovery facility, the fees levied under 34214
divisions (A), (B), and (C) of this section shall be levied upon 34215
the disposal of the fly ash and bottom ash remaining after burning 34216
of the solid wastes and shall be collected by the owner or 34217
operator of the sanitary landfill where the ash is disposed of. 34218

(4) When solid wastes are delivered to a solid waste transfer 34219
facility, the fees levied under divisions (A), (B), and (C) of 34220
this section shall be levied upon the disposal of solid wastes 34221
transported off the premises of the transfer facility for disposal 34222
and shall be collected by the owner or operator of the solid waste 34223
disposal facility where the wastes are disposed of. 34224

(5) The fees levied under divisions (A), (B), and (C) of this 34225
section do not apply to sewage sludge that is generated by a waste 34226
water treatment facility holding a national pollutant discharge 34227
elimination system permit and that is disposed of through 34228
incineration, land application, or composting or at another 34229
resource recovery or disposal facility that is not a landfill. 34230

(6) The fees levied under divisions (A), (B), and (C) of this 34231
section do not apply to solid wastes delivered to a solid waste 34232
composting facility for processing. When any unprocessed solid 34233
waste or compost product is transported off the premises of a 34234
composting facility and disposed of at a landfill, the fees levied 34235
under divisions (A), (B), and (C) of this section shall be 34236
collected by the owner or operator of the landfill where the 34237
unprocessed waste or compost product is disposed of. 34238

(7) When solid wastes that consist of scrap tires are 34239
processed at a scrap tire recovery facility, the fees levied under 34240
divisions (A), (B), and (C) of this section shall be levied upon 34241
the disposal of the fly ash and bottom ash or other solid wastes 34242
remaining after the processing of the scrap tires and shall be 34243

collected by the owner or operator of the solid waste disposal 34244
facility where the ash or other solid wastes are disposed of. 34245

(8) The fees levied under this section do not apply to solid 34246
wastes, including, but not limited to, scrap tires, that are 34247
generated, transferred, or disposed of as a result of a contract 34248
providing for the expenditure of public funds entered into by the 34249
administrator or regional administrator of the United States 34250
environmental protection agency, the director of environmental 34251
protection, or the director of administrative services on behalf 34252
of the director of environmental protection for the purpose of 34253
remediating conditions at a hazardous waste facility, solid waste 34254
facility, or other location at which the administrator or regional 34255
administrator or the director of environmental protection has 34256
reason to believe that there is a substantial threat to public 34257
health or safety or the environment or that the conditions are 34258
causing or contributing to air or water pollution or soil 34259
contamination. 34260

(E) The fees levied under divisions (B) and (C) of this 34261
section shall be collected by the owner or operator of the solid 34262
waste disposal facility where the wastes are disposed of as a 34263
trustee for the county or joint district and municipal corporation 34264
or township where the wastes are disposed of. Moneys from the fees 34265
levied under division (B) of this section shall be forwarded to 34266
the board of county commissioners or board of directors of the 34267
district in accordance with rules adopted under division (H) of 34268
this section. Moneys from the fees levied under division (C) of 34269
this section shall be forwarded to the treasurer or such other 34270
officer of the municipal corporation as, by virtue of the charter, 34271
has the duties of the treasurer or to the clerk of the township, 34272
as appropriate, in accordance with those rules. 34273

(F) Moneys received by the treasurer or such other officer of 34274
the municipal corporation under division (E) of this section shall 34275

be paid into the general fund of the municipal corporation. Moneys 34276
received by the clerk of the township under that division shall be 34277
paid into the general fund of the township. The treasurer or such 34278
other officer of the municipal corporation or the clerk, as 34279
appropriate, shall maintain separate records of the moneys 34280
received from the fees levied under division (C) of this section. 34281

(G) Moneys received by the board of county commissioners or 34282
board of directors under division (E) of this section or section 34283
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 34284
shall be paid to the county treasurer, or other official acting in 34285
a similar capacity under a county charter, in a county district or 34286
to the county treasurer or other official designated by the board 34287
of directors in a joint district and kept in a separate and 34288
distinct fund to the credit of the district. If a regional solid 34289
waste management authority has been formed under section 343.011 34290
of the Revised Code, moneys received by the board of trustees of 34291
that regional authority under division (E) of this section shall 34292
be kept by the board in a separate and distinct fund to the credit 34293
of the district. Moneys in the special fund of the county or joint 34294
district arising from the fees levied under division (B) of this 34295
section and the fee levied under division (A) of section 3734.573 34296
of the Revised Code shall be expended by the board of county 34297
commissioners or directors of the district in accordance with the 34298
district's solid waste management plan or amended plan approved 34299
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 34300
exclusively for the following purposes: 34301

(1) Preparation of the solid waste management plan of the 34302
district under section 3734.54 of the Revised Code, monitoring 34303
implementation of the plan, and conducting the periodic review and 34304
amendment of the plan required by section 3734.56 of the Revised 34305
Code by the solid waste management policy committee; 34306

(2) Implementation of the approved solid waste management 34307

plan or amended plan of the district, including, without 34308
limitation, the development and implementation of solid waste 34309
recycling or reduction programs; 34310

(3) Providing financial assistance to boards of health within 34311
the district, if solid waste facilities are located within the 34312
district, for enforcement of this chapter and rules, orders, and 34313
terms and conditions of permits, licenses, and variances adopted 34314
or issued under it, other than the hazardous waste provisions of 34315
this chapter and rules adopted and orders and terms and conditions 34316
of permits issued under those provisions; 34317

(4) Providing financial assistance to each county within the 34318
district to defray the added costs of maintaining roads and other 34319
public facilities and of providing emergency and other public 34320
services resulting from the location and operation of a solid 34321
waste facility within the county under the district's approved 34322
solid waste management plan or amended plan; 34323

(5) Pursuant to contracts entered into with boards of health 34324
within the district, if solid waste facilities contained in the 34325
district's approved plan or amended plan are located within the 34326
district, for paying the costs incurred by those boards of health 34327
for collecting and analyzing samples from public or private water 34328
wells on lands adjacent to those facilities; 34329

(6) Developing and implementing a program for the inspection 34330
of solid wastes generated outside the boundaries of this state 34331
that are disposed of at solid waste facilities included in the 34332
district's approved solid waste management plan or amended plan; 34333

(7) Providing financial assistance to boards of health within 34334
the district for the enforcement of section 3734.03 of the Revised 34335
Code or to local law enforcement agencies having jurisdiction 34336
within the district for enforcing anti-littering laws and 34337
ordinances; 34338

(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. 34371

Notwithstanding division (G)(6) of this section as it existed 34372
prior to October 29, 1993, or any provision in a district's solid 34373
waste management plan prepared in accordance with division 34374
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 34375
prior to that date, any moneys arising from the fees levied under 34376
division (B)(3) of this section prior to January 1, 1994, may be 34377
expended for any of the purposes authorized in divisions (G)(1) to 34378
(10) of this section. 34379

(H) The director shall adopt rules in accordance with Chapter 34380
119. of the Revised Code prescribing procedures for collecting and 34381
forwarding the fees levied under divisions (B) and (C) of this 34382
section to the boards of county commissioners or directors of 34383
county or joint solid waste management districts and to the 34384
treasurers or other officers of municipal corporations or to the 34385
clerks of townships. The rules also shall prescribe the dates for 34386
forwarding the fees to the boards and officials and may prescribe 34387
any other requirements the director considers necessary or 34388
appropriate to implement and administer divisions (A), (B), and 34389
(C) of this section. ~~Collection of the fees levied under division~~ 34390
~~(A)(1) of this section shall commence on July 1, 1993. Collection~~ 34391
~~of the fees levied under division (A)(2) of this section shall~~ 34392
~~commence on January 1, 1994.~~ 34393

Sec. 3734.573. (A) For the ~~purpose of preparing, revising,~~ 34394
~~and implementing the solid waste management plan of the district,~~ 34395
~~including, without limitation, the development and implementation~~ 34396
~~of solid waste recycling or reduction programs; providing~~ 34397
~~financial assistance to boards of health within the district, if~~ 34398
~~solid waste facilities are located in the district, for the~~ 34399
~~enforcement of this chapter and rules adopted and orders and terms~~ 34400
~~and conditions of permits, licenses, and variances issued under~~ 34401

~~it, other than the hazardous waste provisions of this chapter and 34402
rules adopted and orders and terms and conditions of permits 34403
issued under those provisions; providing financial assistance to 34404
the county to defray the added costs of maintaining roads and 34405
other public facilities and of providing emergency and other 34406
public services resulting from the location and operation of a 34407
solid waste facility within the county under the district's 34408
approved plan or amended plan; paying the costs incurred by boards 34409
of health for collecting and analyzing water samples from public 34410
and private wells on lands adjacent to solid waste facilities that 34411
are contained in the approved or amended plan of the district; 34412
paying the costs of developing and implementing a program for the 34413
inspection of solid wastes generated outside the boundaries of 34414
this state that are disposed of at solid waste facilities included 34415
in the district's approved plan or amended plan; providing 34416
financial assistance to boards of health within the district for 34417
enforcing laws prohibiting open dumping; providing financial 34418
assistance to local law enforcement agencies within the district 34419
for enforcing laws and ordinances prohibiting littering; providing 34420
financial assistance to boards of health of health districts 34421
within the district that are on the approved list under section 34422
3734.08 of the Revised Code for the training and certification 34423
required for their employees responsible for solid waste 34424
enforcement by rules adopted under division (L) of section 3734.02 34425
of the Revised Code; providing financial assistance to individual 34426
municipal corporations and townships within the district to defray 34427
their added costs of maintaining roads and other public facilities 34428
and of providing emergency and other public services resulting 34429
from the location and operation within their boundaries of a 34430
composting, energy or resource recovery, incineration, or 34431
recycling facility that either is owned by the district or is 34432
furnishing solid waste management facility or recycling services 34433
to the district pursuant to a contract or agreement with the board 34434~~

~~of county commissioners or directors of the district; and paying~~ 34435
~~any expenses provided for or incurred under section 3734.35~~ 34436
purposes specified in division (G) of section 3734.57 of the 34437
Revised Code, the solid waste management policy committee of a 34438
county or joint solid waste management district may levy a fee on 34439
the generation of solid wastes within the district. 34440

The initial or amended solid waste management plan of the 34441
county or joint district approved under section 3734.521, 3734.55, 34442
or 3734.56 of the Revised Code, an amendment to the district's 34443
plan adopted under division (E) of section 3734.56 of the Revised 34444
Code, or the resolution adopted and ratified under division (B) of 34445
this section shall establish the rate of the fee levied under this 34446
division and shall specify whether the fee is levied on the basis 34447
of tons or cubic yards as the unit of measurement. 34448

(B) Prior to the approval under division (A) of section 34449
3734.56 of the Revised Code of the first amended plan that the 34450
district is required to submit for approval under that section, 34451
the approval of an initial plan under section 3734.521 of the 34452
Revised Code, the approval of an amended plan under section 34453
3734.521 or division (D) of section 3734.56 of the Revised Code, 34454
or the amendment of the district's plan under division (E) of 34455
section 3734.56 of the Revised Code, the solid waste management 34456
policy committee of a county or joint district that is operating 34457
under an initial plan approved under section 3734.55 of the 34458
Revised Code, or one for which approval of its initial plan is 34459
pending before the director of environmental protection on October 34460
29, 1993, under section 3734.55 of the Revised Code, may levy a 34461
fee under division (A) of this section by adopting and obtaining 34462
ratification of a resolution establishing the amount of the fee. A 34463
policy committee that, after December 1, 1993, concurrently 34464
proposes to levy a fee under division (A) of this section and to 34465
amend the fees levied by the district under divisions (B)(1) to 34466

(3) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution proposing to do both. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption, amendment, and repeal of resolutions levying fees under divisions (B)(1) to (3) of that section, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees levied under those divisions govern the adoption of the resolutions authorized to be adopted under this division, the ratification thereof, and the notification of owners and operators required to collect the fees, except as otherwise specifically provided in division (C) of this section.

(C) Any initial or amended plan of a district adopted under section 3734.521 or 3734.56 of the Revised Code, or resolution adopted under division (B) of this section, that proposes to levy a fee under division (A) of this section that exceeds five dollars per ton shall be ratified in accordance with the provisions of section 3734.55 or division (B) of section 3734.57 of the Revised Code, as applicable, except that such an initial or amended plan or resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section

govern the adoption and ratification of a resolution authorized to 34499
be adopted under this division and the notification of owners and 34500
operators of solid waste facilities required to collect the fees. 34501

(E) Collection of a fee or amended fee levied under division 34502
(A) or (D) of this section shall commence or cease in accordance 34503
with division (B) of section 3734.57 of the Revised Code. If a 34504
district is levying a fee under section 3734.572 of the Revised 34505
Code, collection of that fee shall cease on the date on which 34506
collection of the fee levied under division (A) of this section 34507
commences in accordance with division (B) of section 3734.57 of 34508
the Revised Code. 34509

(F) In the case of solid wastes that are taken to a solid 34510
waste transfer facility prior to being transported to a solid 34511
waste disposal facility for disposal, the fee levied under 34512
division (A) of this section shall be collected by the owner or 34513
operator of the transfer facility as a trustee for the district. 34514
In the case of solid wastes that are not taken to a solid waste 34515
transfer facility prior to being transported to a solid waste 34516
disposal facility, the fee shall be collected by the owner or 34517
operator of the solid waste disposal facility where the wastes are 34518
disposed of. An owner or operator of a solid waste transfer or 34519
disposal facility who is required to collect the fee shall collect 34520
and forward the fee to the district in accordance with section 34521
3734.57 of the Revised Code and rules adopted under division (H) 34522
of that section. 34523

If the owner or operator of a solid waste transfer or 34524
disposal facility who did not receive notice pursuant to division 34525
(B) of this section to collect the fee levied by a district under 34526
division (A) of this section receives solid wastes generated in 34527
the district, the owner or operator, within thirty days after 34528
receiving the wastes, shall send written notice of that fact to 34529
the board of county commissioners or directors of the district. 34530

Within thirty days after receiving such a notice, the board of
county commissioners or directors shall send written notice to the
owner or operator indicating whether the district is levying a fee
under division (A) of this section and, if so, the amount of the
fee.

(G) Moneys received by a district levying a fee under
division (A) of this section shall be credited to the special fund
of the district created in division (G) of section 3734.57 of the
Revised Code and shall be used exclusively for the purposes ~~set~~
~~forth~~ specified in ~~divisions (G)(1) to (10) of that section~~
division. Prior to the approval under division (A) of section
3734.56 of the Revised Code of the first amended plan that the
district is required to submit for approval under that section,
the approval of an initial plan under section 3734.521 of the
Revised Code, the approval of an amended plan under that section
or division (D) of section 3734.56 of the Revised Code, or the
amendment of the district's plan under division (E) of section
3734.56 of the Revised Code, moneys credited to the special fund
arising from the fee levied pursuant to a resolution adopted and
ratified under division (B) of this section shall be expended for
those purposes in the manner prescribed by the solid waste
management policy committee by resolution.

(H) The fee levied under division (A) of this section does
not apply to the management of solid wastes that:

(1) Are disposed of at a facility owned by the generator of
the wastes when the solid waste facility exclusively disposes of
solid wastes generated at one or more premises owned by the
generator regardless of whether the facility is located on a
premises where the wastes were generated;

(2) Are disposed of at facilities that exclusively dispose of
wastes that are generated from the combustion of coal, or from the

combustion of primarily coal in combination with scrap tires, that 34562
is not combined in any way with garbage at one or more premises 34563
owned by the generator. 34564

(I) When solid wastes that are burned in a disposal facility 34565
that is an incinerator or energy recovery facility are delivered 34566
to a solid waste transfer facility prior to being transported to 34567
the incinerator or energy recovery facility where they are burned, 34568
the fee levied under division (A) of this section shall be levied 34569
on the wastes delivered to the transfer facility. 34570

(J) When solid wastes that are burned in a disposal facility 34571
that is an incinerator or energy recovery facility are not 34572
delivered to a solid waste transfer facility prior to being 34573
transported to the incinerator or energy recovery facility where 34574
they are burned, the fee levied under division (A) of this section 34575
shall be levied on the wastes delivered to the incinerator or 34576
energy recovery facility. 34577

(K) The fee levied under division (A) of this section does 34578
not apply to sewage sludge that is generated by a waste water 34579
treatment facility holding a national pollutant discharge 34580
elimination system permit and that is disposed of through 34581
incineration, land application, or composting or at another 34582
resource recovery or disposal facility that is not a landfill. 34583

(L) The fee levied under division (A) of this section does 34584
not apply to yard waste delivered to a solid waste composting 34585
facility for processing or to a solid waste transfer facility. 34586

(M) The fee levied under division (A) of this section does 34587
not apply to materials separated from a mixed waste stream for 34588
recycling by the generator. 34589

(N) The fees levied under this section do not apply to solid 34590
wastes, including, but not limited to, scrap tires, that are 34591
generated, transferred, or disposed of as a result of a contract 34592

providing for the expenditure of public funds entered into by the 34593
administrator or regional administrator of the United States 34594
environmental protection agency, the director of environmental 34595
protection, or the director of administrative services on behalf 34596
of the director of environmental protection for the purpose of 34597
remediating conditions at a hazardous waste facility, solid waste 34598
facility, or other location at which the administrator or regional 34599
administrator or the director of environmental protection has 34600
reason to believe that there is a substantial threat to public 34601
health or safety or the environment or that the conditions are 34602
causing or contributing to air or water pollution or soil 34603
contamination. 34604

Sec. 3734.85. (A) On and after the effective date of the 34605
rules adopted under sections 3734.70, 3734.71, 3734.72, and 34606
3734.73 of the Revised Code, the director of environmental 34607
protection may take action under this section to abate 34608
accumulations of scrap tires. If the director determines that an 34609
accumulation of scrap tires constitutes a danger to the public 34610
health or safety or to the environment, ~~he~~ the director shall 34611
issue an order under section 3734.13 of the Revised Code to the 34612
person responsible for the accumulation of scrap tires directing 34613
that person, within one hundred twenty days after the issuance of 34614
the order, to remove the accumulation of scrap tires from the 34615
premises on which it is located and transport the tires to a scrap 34616
tire storage, monocell, monofill, or recovery facility licensed 34617
under section 3734.81 of the Revised Code, to such a facility in 34618
another state operating in compliance with the laws of the state 34619
in which it is located, or to any other solid waste disposal 34620
facility in another state that is operating in compliance with the 34621
laws of that state. If the person responsible for causing the 34622
accumulation of scrap tires is a person different from the owner 34623
of the land on which the accumulation is located, the director may 34624

issue such an order to the landowner. 34625

If the director is unable to ascertain immediately the 34626
identity of the person responsible for causing the accumulation of 34627
scrap tires, ~~he~~ the director shall examine the records of the 34628
applicable board of health and law enforcement agencies to 34629
ascertain that person's identity. Before initiating any 34630
enforcement or removal actions under this division against the 34631
owner of the land on which the accumulation is located, the 34632
director shall initiate any such actions against the person that 34633
~~he~~ the director has identified as responsible for causing the 34634
accumulation of scrap tires. Failure of the director to make 34635
diligent efforts to ascertain the identity of the person 34636
responsible for causing the accumulation of scrap tires or to 34637
initiate an action against the person responsible for causing the 34638
accumulation shall not constitute an affirmative defense by a 34639
landowner to an enforcement action initiated by the director under 34640
this division requiring immediate removal of any accumulation of 34641
scrap tires. 34642

Upon the written request of the recipient of an order issued 34643
under this division, the director may extend the time for 34644
compliance with the order if the request demonstrates that the 34645
recipient has acted in good faith to comply with the order. If the 34646
recipient of an order issued under this division fails to comply 34647
with the order within one hundred twenty days after the issuance 34648
of the order or, if the time for compliance with the order was so 34649
extended, within that time, the director shall take such actions 34650
as ~~he~~ the director considers reasonable and necessary to remove 34651
and properly manage the scrap tires located on the land named in 34652
the order. The director, through employees of the environmental 34653
protection agency or a contractor, may enter upon the land on 34654
which the accumulation of scrap tires is located and remove and 34655
transport them to a scrap tire recovery facility for processing, 34656

to a scrap tire storage facility for storage, or to a scrap tire
monocell or monofill facility for storage or disposal.

The director shall enter into contracts with the owners or
operators of scrap tire storage, monocell, monofill, or recovery
facilities for the storage, disposal, or processing of scrap tires
removed through removal operations conducted under this section.
In doing so, the director shall give preference to scrap tire
recovery facilities.

If a person to whom a removal order is issued under this
division fails to comply with the order and if the director
performs a removal action under this section, the person to whom
the removal order is issued is liable to the director for the
costs incurred by the director for conducting the removal
operation, storage at a scrap tire storage facility, storage or
disposal at a scrap tire monocell or monofill facility, or
processing of the scrap tires so removed, the transportation of
the scrap tires from the site of the accumulation to the scrap
tire storage, monocell, monofill, or recovery facility where the
scrap tires were stored, disposed of, or processed, and the
administrative and legal expenses incurred by the director in
connection with the removal operation. The director shall keep an
itemized record of those costs. Upon completion of the actions for
which the costs were incurred, the director shall record the costs
at the office of the county recorder of the county in which the
accumulation of scrap tires was located. The costs so recorded
constitute a lien on the property on which the accumulation of
scrap tires was located until discharged. Upon the written request
of the director, the attorney general shall bring a civil action
against the person responsible for the accumulation of the scrap
tires that were the subject of the removal operation to recover
the costs ~~of the removal operation. If the director is unable to
recover those costs through such a civil action, he shall certify~~

~~them to the county recorder of the county in which the~~ 34689
~~accumulation of scrap tires was located. The recorder shall record~~ 34690
~~the costs so certified as a lien on the property on which the~~ 34691
~~accumulation of scrap tires was located, which costs shall be a~~ 34692
~~lien on the property until discharged for which the person is~~ 34693
~~liable under this division. Any money so received or recovered~~ 34694
~~shall be credited to the scrap tire management fund created in~~ 34695
~~section 3734.82 of the Revised Code.~~ 34696

If, in a civil action brought under this division, an owner 34697
of real property is ordered to pay to the director the costs of a 34698
removal action that removed an accumulation of scrap tires from 34699
the person's land or if a lien is placed on the person's land for 34700
the costs of such a removal action, and, in either case, if the 34701
landowner was not the person responsible for causing the 34702
accumulation of scrap tires so removed, the landowner may bring a 34703
civil action against the person who was responsible for causing 34704
the accumulation to recover the amount of the removal costs that 34705
the court ordered the landowner to pay to the director or the 34706
amount of the removal costs certified to the county recorder as a 34707
lien on the landowner's property, whichever is applicable. If the 34708
landowner prevails in the civil action against the person who was 34709
responsible for causing the accumulation of scrap tires, the 34710
court, as it considers appropriate, may award to the landowner the 34711
reasonable attorney's fees incurred by the landowner for bringing 34712
the action, court costs, and other reasonable expenses incurred by 34713
the landowner in connection with the civil action. A landowner 34714
shall bring such a civil action within two years after making the 34715
final payment of the removal costs to the director pursuant to the 34716
judgment rendered against the landowner in the civil action 34717
brought under this division upon the director's request or within 34718
two years after the director certified the costs of the removal 34719
action to the county recorder, as appropriate. A person who, at 34720
the time that a removal action was conducted under this division, 34721

owned the land on which the removal action was performed may bring 34722
an action under this division to recover the costs of the removal 34723
action from the person responsible for causing the accumulation of 34724
scrap tires so removed regardless of whether the person owns the 34725
land at the time of bringing the action. 34726

Subject to the limitations set forth in division (G) of 34727
section 3734.82 of the Revised Code, the director may use moneys 34728
in the scrap tire management fund ~~created in that division~~ for 34729
conducting removal actions under this division. Any moneys 34730
recovered under this division shall be credited to the scrap tire 34731
management fund. 34732

(B) The director shall initiate enforcement and removal 34733
actions under division (A) of this section in accordance with the 34734
following descending listing of priorities: 34735

(1) Accumulations of scrap tires that the director finds 34736
constitute a fire hazard or threat to public health; 34737

(2) Accumulations of scrap tires determined by the director 34738
to contain more than one million scrap tires; 34739

(3) Accumulations of scrap tires in densely populated areas; 34740

(4) Other accumulations of scrap tires that the director or 34741
board of health of the health district in which the accumulation 34742
is located determines constitute a public nuisance; 34743

(5) Any other accumulations of scrap tires present on 34744
premises operating without a valid license issued under section 34745
3734.05 or 3734.81 of the Revised Code. 34746

(C) The director shall not take enforcement and removal 34747
actions under division (A) of this section against the owner or 34748
operator of, or the owner of the land on which is located, any of 34749
the following: 34750

(1) A premises where not more than one hundred scrap tires 34751

are present at any time;	34752
(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:	34753 34754
(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location;	34755 34756
(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.	34757 34758
(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;	34759 34760 34761 34762
(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;	34763 34764 34765 34766
(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;	34767 34768 34769 34770
(6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use;	34771 34772
(7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;	34773 34774
(8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code;	34775 34776 34777
(9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;	34778 34779 34780

(10) A premises where scrap tires are beneficially used and 34781
for which the notice required by rules adopted under section 34782
3734.84 of the Revised Code has been given; 34783

(11) A transporter registered under section 3734.83 of the 34784
Revised Code that collects and holds scrap tires in a covered 34785
trailer or vehicle for not longer than thirty days prior to 34786
transporting them to their final destination. 34787

(D) Nothing in this section restricts any right any person 34788
may have under statute or common law to enforce or seek 34789
enforcement of any law applicable to the management of scrap 34790
tires, abate a nuisance, or seek any other appropriate relief. 34791

(E) An owner of real property upon which there is located an 34792
accumulation of not more than two thousand scrap tires is not 34793
liable under division (A) of this section for the cost of the 34794
removal of the scrap tires, and no lien shall attach to the 34795
property under this section, if all of the following conditions 34796
are met: 34797

(1) The tires were placed on the property after the owner 34798
acquired title to the property, or the tires were placed on the 34799
property before the owner acquired title to the property and the 34800
owner acquired title to the property by bequest or devise; 34801

(2) The owner of the property did not have knowledge that the 34802
tires were being placed on the property, or the owner posted on 34803
the property signs prohibiting dumping or took other action to 34804
prevent the placing of tires on the property; 34805

(3) The owner of the property did not participate in or 34806
consent to the placing of the tires on the property; 34807

(4) The owner of the property received no financial benefit 34808
from the placing of the tires on the property or otherwise having 34809
the tires on the property; 34810

(5) Title to the property was not transferred to the owner 34811
for the purpose of evading liability under division (A) of this 34812
section. 34813

(6) The person responsible for placing the tires on the 34814
property, in doing so, was not acting as an agent for the owner of 34815
the property. 34816

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 34817
defray the cost of administering and enforcing the scrap tire 34818
provisions of this chapter, rules adopted under those provisions, 34819
and terms and conditions of orders, variances, and licenses issued 34820
under those provisions; to abate accumulations of scrap tires; to 34821
make grants to promote research regarding alternative methods of 34822
recycling scrap tires and loans to promote the recycling or 34823
recovery of energy from scrap tires; and to defray the costs of 34824
administering and enforcing sections 3734.90 to 3734.9014 of the 34825
Revised Code, a fee of fifty cents per tire is hereby levied on 34826
the sale of tires. The fee is levied from the first day of the 34827
calendar month that begins next after thirty days from October 29, 34828
1993, through June 30, ~~2006~~ 2011. 34829

(2) Beginning on ~~the effective date of this section~~ September 34830
5, 2001, and ending on June 30, 2011, there is hereby levied an 34831
additional fee of fifty cents per tire on the sale of tires the 34832
proceeds of which shall be deposited in the state treasury to the 34833
credit of the scrap tire management fund created in section 34834
3734.82 of the Revised Code and be used exclusively for the 34835
purposes specified in division (G)(3) of that section. 34836

(B) Only one sale of the same article shall be used in 34837
computing the amount of the fee due. 34838

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the 34839
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 34840

the Revised Code shall be certified directly to the credit of the 34841
tire fee administrative fund, which is hereby created in the state 34842
treasury, for appropriation to the department of taxation for use 34843
in administering those sections. The remainder of the amounts paid 34844
to the treasurer of state shall be deposited to the credit of the 34845
scrap tire management fund created in section 3734.82 of the 34846
Revised Code. 34847

Sec. 3735.27. (A) Whenever the director of development has 34848
determined that there is need for a housing authority in any 34849
portion of any county that comprises two or more political 34850
subdivisions or portions of two or more political subdivisions but 34851
is less than all the territory within the county, a metropolitan 34852
housing authority shall be declared to exist, and the territorial 34853
limits of the authority shall be defined, by a letter from the 34854
director. The director shall issue a determination from the 34855
department of development declaring that there is need for a 34856
housing authority within those territorial limits after finding 34857
either of the following: 34858

(1) Unsanitary or unsafe inhabited housing accommodations 34859
exist in that area; 34860

(2) There is a shortage of safe and sanitary housing 34861
accommodations in that area available to persons who lack the 34862
amount of income that is necessary, as determined by the director, 34863
to enable them, without financial assistance, to live in decent, 34864
safe, and sanitary dwellings without congestion. 34865

In determining whether dwelling accommodations are unsafe or 34866
unsanitary, the director may take into consideration the degree of 34867
congestion, the percentage of land coverage, the light, air, 34868
space, and access available to the inhabitants of the dwelling 34869
accommodations, the size and arrangement of rooms, the sanitary 34870
facilities, and the extent to which conditions exist in the 34871

dwelling accommodations that endanger life or property by fire or 34872
other causes. 34873

The territorial limits of a metropolitan housing authority as 34874
defined by the director under this division shall be fixed for the 34875
authority upon proof of a letter from the director declaring the 34876
need for the authority to function in those territorial limits. 34877
Any such letter from the director, any certificate of 34878
determination issued by the director, and any certificate of 34879
appointment of members of the authority shall be admissible in 34880
evidence in any suit, action, or proceeding. 34881

A certified copy of the letter from the director declaring 34882
the existence of a metropolitan housing authority and the 34883
territorial limits of its district shall be immediately forwarded 34884
to each appointing authority. A metropolitan housing authority 34885
shall consist of members who are residents of the territory in 34886
which they serve. 34887

(B)(1) Except as otherwise provided in division (C), (D), or 34888
(E) of this section, the members of a metropolitan housing 34889
authority shall be appointed as follows: 34890

(a)(i) In a district in a county in which a charter has been 34891
adopted under Article X, Section 3 of the Ohio Constitution, and 34892
in which the most populous city is not the city with the largest 34893
ratio of housing units owned or managed by the authority to 34894
population, one member shall be appointed by the probate court, 34895
one member shall be appointed by the court of common pleas, one 34896
member shall be appointed by the board of county commissioners, 34897
one member shall be appointed by the chief executive officer of 34898
the city that has the largest ratio of housing units owned or 34899
managed by the authority to population, and two members shall be 34900
appointed by the chief executive officer of the most populous city 34901
in the district. 34902

(ii) If, in a district that appoints members pursuant to 34903
division (B)(1)(a) of this section, the most populous city becomes 34904
the city with the largest ratio of housing units owned or managed 34905
by the authority to population, when the term of office of the 34906
member who was appointed by the chief executive officer of the 34907
city with the largest ratio expires, that member shall not be 34908
reappointed, and the membership of the authority shall be as 34909
described in division (B)(1)(b) of this section. 34910

(b) In any district other than one described in division 34911
(B)(1)(a) of this section, one member shall be appointed by the 34912
probate court, one member shall be appointed by the court of 34913
common pleas, one member shall be appointed by the board of county 34914
commissioners, and two members shall be appointed by the chief 34915
executive officer of the most populous city in the district. 34916

(2) At the time of the initial appointment of the authority, 34917
the member appointed by the probate court shall be appointed for a 34918
period of four years, the member appointed by the court of common 34919
pleas shall be appointed for three years, the member appointed by 34920
the board of county commissioners shall be appointed for two 34921
years, one member appointed by the chief executive officer of the 34922
most populous city in the district shall be appointed for one 34923
year, and the other member appointed by the chief executive 34924
officer of the most populous city in the district shall be 34925
appointed for five years. 34926

If appointments are made under division (B)(1)(a) of this 34927
section, the member appointed by the chief executive officer of 34928
the city in the district that is not the most populous city, but 34929
that has the largest ratio of housing units owned or managed by 34930
the authority to population, shall be appointed for five years. 34931

After the initial appointments, all members of the authority 34932
shall be appointed for five-year terms, and any vacancy occurring 34933

upon the expiration of a term shall be filled by the appointing authority that made the initial appointment. 34934
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(3) For purposes of this division, population shall be determined according to the last preceding federal census. 34936
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(C) For any metropolitan housing authority district that contained, as of the 1990 federal census, a population of at least one million, two members of the authority shall be appointed by the legislative authority of the most populous city in the district, two members shall be appointed by the chief executive officer of the most populous city in the district, and one member shall be appointed by the chief executive officer, with the approval of the legislative authority, of the city in the district that has the second highest number of housing units owned or managed by the authority. 34938
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At the time of the initial appointment of the authority, one member appointed by the legislative authority of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year; the member appointed by the chief executive officer of the city with the second highest number of housing units owned or managed by the authority shall be appointed, with the approval of the legislative authority, for three years; and one member appointed by the chief executive officer of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year. Thereafter, all members of the authority shall be appointed for three-year terms, and any vacancy shall be filled by the same appointing power that made the initial appointment. At the expiration of the term of any member appointed by the chief executive officer of the most populous city in the district before March 15, 1983, the chief executive officer of the most populous city in the district shall fill the vacancy by appointment for a three-year term. At the expiration of the term of any member 34948
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appointed by the board of county commissioners before March 15, 34966
1983, the chief executive officer of the city in the district with 34967
the second highest number of housing units owned or managed by the 34968
authority shall, with the approval of the municipal legislative 34969
authority, fill the vacancy by appointment for a three-year term. 34970
At the expiration of the term of any member appointed before March 34971
15, 1983, by the court of common pleas or the probate court, the 34972
legislative authority of the most populous city in the district 34973
shall fill the vacancy by appointment for a three-year term. 34974

After March 15, 1983, at least one of the members appointed 34975
by the chief executive officer of the most populous city shall be 34976
a resident of a dwelling unit owned or managed by the authority. 34977
At least one of the initial appointments by the chief executive 34978
officer of the most populous city, after March 15, 1983, shall be 34979
a resident of a dwelling unit owned or managed by the authority. 34980
Thereafter, any member appointed by the chief executive officer of 34981
the most populous city for the term established by this initial 34982
appointment, or for any succeeding term, shall be a person who 34983
resides in a dwelling unit owned or managed by the authority. If 34984
there is an elected, representative body of all residents of the 34985
authority, the chief executive officer of the most populous city 34986
shall, whenever there is a vacancy in this resident term, provide 34987
written notice of the vacancy to the representative body. If the 34988
representative body submits to the chief executive officer of the 34989
most populous city, in writing and within sixty days after the 34990
date on which it was notified of the vacancy, the names of at 34991
least five residents of the authority who are willing and 34992
qualified to serve as a member, the chief executive officer of the 34993
most populous city shall appoint to the resident term one of the 34994
residents recommended by the representative body. At no time shall 34995
residents constitute a majority of the members of the authority. 34996

(D)(1) For any metropolitan housing authority district 34997

located in a county that had, as of the 2000 federal census, a
population of at least four hundred thousand and no city with a
population greater than thirty per cent of the total population of
the county, one member of the authority shall be appointed by the
probate court, one member shall be appointed by the court of
common pleas, one member shall be appointed by the chief executive
officer of the most populous city in the district, and two members
shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan
housing authority pursuant to this division, the member appointed
by the probate court shall be appointed for a period of four
years, the member appointed by the court of common pleas shall be
appointed for three years, the member appointed by the chief
executive officer of the most populous city shall be appointed for
two years, one member appointed by the board of county
commissioners shall be appointed for one year, and the other
member appointed by the board of county commissioners shall be
appointed for five years. Thereafter, all members of the authority
shall be appointed for five-year terms, with each term ending on
the same day of the same month as the term that it succeeds.
Vacancies shall be filled in the manner provided in the original
appointments. Any member appointed to fill a vacancy occurring
prior to the expiration of the term shall hold office as a member
for the remainder of that term.

(E)(1) ~~An additional two members~~ One resident member shall be
appointed to ~~the~~ a metropolitan housing authority ~~in any district~~
~~that has three hundred or more assisted housing units and that~~
~~does not have at least one resident as a member of its authority.~~
~~For the purposes of this section, an "assisted unit" is a housing~~
~~unit owned or operated by the housing authority or a unit in which~~
~~the occupants receive tenant based housing assistance through the~~
~~federal section 8 housing program, 24 C.F.R. Ch VIII, and, a~~

~~"resident" is a person who lives in an assisted housing unit when~~ 35030
~~required by federal law. The~~ 35031

~~(2) The chief executive officer of the most populous city in~~ 35032
~~the district shall appoint an additional member who is a that~~ 35033
~~resident member for an initial a term of five years. The board of~~ 35034
~~county commissioners shall appoint the other additional member,~~ 35035
~~who need not be a resident, for an initial term of three years.~~ 35036
~~After the initial term, the terms of both members~~ Subsequent terms 35037
of that resident member also shall be for five years, and 35038
vacancies any vacancy in the position of the resident member shall 35039
be filled in the manner provided for original appointments by the 35040
chief executive officer of the most populous city in the district. 35041
Any member appointed to fill such a vacancy ~~occurring prior to the~~ 35042
~~expiration of the term for which the member's predecessor was~~ 35043
~~appointed shall hold office as a resident member for the remainder~~ 35044
~~of that term. If, at any time, the~~ 35045

~~(3) A member appointed as a resident member who no longer~~ 35046
~~qualifies as a resident shall be deemed unable to serve, and~~ 35047
another resident member shall be appointed by the chief executive 35048
officer of the most populous city in the district to serve for the 35049
unexpired portion of that term. 35050

(2) On and after the effective date of this amendment, any 35051
metropolitan housing authority to which two additional members 35052
were appointed pursuant to former division (E)(1) of this section 35053
as enacted by Amended Substitute House Bill No. 95 of the 125th 35054
general assembly shall continue to have those additional members. 35055
Their terms shall be for five years, and vacancies in their 35056
positions shall be filled in the manner provided for their 35057
original appointment under former division (E)(1) of this section 35058
as so enacted. 35059

(F) Public officials, other than the officers having the 35060
appointing power under this section, shall be eligible to serve as 35061

members, officers, or employees of a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

After a metropolitan housing authority district is formed, the director may enlarge the territory within the district to include other political subdivisions, or portions of other political subdivisions, but the territorial limits of the district shall be less than that of the county.

(G)(1) Any vote taken by a metropolitan housing authority shall require a majority affirmative vote to pass. A tie vote shall constitute a defeat of any measure receiving equal numbers of votes for and against it.

(2) The members of a metropolitan housing authority shall act in the best interest of the district and shall not act solely as representatives of their respective appointing authorities.

Sec. 3743.01. As used in this chapter:

(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(D)(1) "1.3G fireworks" means display fireworks consistent 35091
with regulations of the United States department of transportation 35092
as expressed using the designation "division 1.3" in Title 49, 35093
Code of Federal Regulations. 35094

(2) "1.4G fireworks" means consumer fireworks consistent with 35095
regulations of the United States department of transportation as 35096
expressed using the designation "division 1.4" in Title 49, Code 35097
of Federal Regulations. 35098

(E) "Controlled substance" has the same meaning as in section 35099
3719.01 of the Revised Code. 35100

(F) "Fireworks" means any composition or device prepared for 35101
the purpose of producing a visible or an audible effect by 35102
combustion, deflagration, or detonation, except ordinary matches 35103
and except as provided in section 3743.80 of the Revised Code. 35104

(G) "Fireworks plant" means all buildings and other 35105
structures in which the manufacturing of fireworks, or the storage 35106
or sale of manufactured fireworks by a manufacturer, takes place. 35107

(H) "Highway" means any public street, road, alley, way, 35108
lane, or other public thoroughfare. 35109

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" 35110
means a person licensed pursuant to sections 3743.50 to 3743.55 of 35111
the Revised Code. 35112

(J) "Licensed manufacturer of fireworks" or "licensed 35113
manufacturer" means a person licensed pursuant to sections 3743.02 35114
to 3743.08 of the Revised Code. 35115

(K) "Licensed wholesaler of fireworks" or "licensed 35116
wholesaler" means a person licensed pursuant to sections 3743.15 35117
to 3743.21 of the Revised Code. 35118

(L) "List of licensed exhibitors" means the list required by 35119
division (C) of section 3743.51 of the Revised Code. 35120

(M) "List of licensed manufacturers" means the list required	35121
by division (C) of section 3743.03 of the Revised Code.	35122
(N) "List of licensed wholesalers" means the list required by	35123
division (C) of section 3743.16 of the Revised Code.	35124
(O) "Manufacturing of fireworks" means the making of	35125
fireworks from raw materials, none of which in and of themselves	35126
constitute a fireworks, or the processing of fireworks.	35127
(P) "Navigable waters" means any body of water susceptible of	35128
being used in its ordinary condition as a highway of commerce over	35129
which trade and travel is or may be conducted in the customary	35130
modes, but does not include a body of water that is not capable of	35131
navigation by barges, tugboats, and other large vessels.	35132
(Q) "Novelties and trick noisemakers" include the following	35133
items:	35134
(1) Devices that produce a small report intended to surprise	35135
the user, including, but not limited to, booby traps, cigarette	35136
loads, party poppers, and snappers;	35137
(2) Snakes or glow worms;	35138
(3) Smoke devices;	35139
(4) Trick matches.	35140
(R) "Party popper" means a small plastic or paper item that	35141
contains not more than sixteen milligrams of friction-sensitive	35142
explosive composition, that is ignited by pulling a string	35143
protruding from the item, and from which paper streamers are	35144
expelled when the item is ignited.	35145
(S) "Processing of fireworks" means the making of fireworks	35146
from materials all or part of which in and of themselves	35147
constitute a fireworks, but does not include the mere packaging or	35148
repackaging of fireworks.	35149

(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

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(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

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(V) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

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(W) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

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(X) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

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(Y) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

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(Z) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

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(AA) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

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(BB) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

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(CC) "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

(DD) "Fireworks incident" means any action or omission that occurs at a fireworks exhibition, that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or any applicable rule adopted under this chapter.

(EE) "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.

(FF) "Fireworks incident site" means a discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

(GG) "Storage location" means a single parcel or contiguous parcels of real estate approved by the fire marshal pursuant to division (I) of section 3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

Sec. 3743.02. (A) Any person who wishes to manufacture 35210
fireworks in this state shall submit to the fire marshal an 35211
application for licensure as a manufacturer of fireworks before 35212
the first day of October of each year. The application shall be 35213
submitted prior to the operation of a fireworks plant, shall be on 35214
a form prescribed by the fire marshal, shall contain all 35215
information required by this section or requested by the fire 35216
marshal, and shall be accompanied by the license fee, 35217
fingerprints, and proof of insurance coverage described in 35218
division (B) of this section. 35219

The fire marshal shall prescribe a form for applications for 35220
licensure as a manufacturer of fireworks and make a copy of the 35221
form available, upon request, to persons who seek that licensure. 35222

(B) An applicant for licensure as a manufacturer of fireworks 35223
shall submit with the application all of the following: 35224

(1) A license fee of two thousand seven hundred fifty 35225
dollars, which the fire marshal shall use to pay for fireworks 35226
safety education, training programs, and inspections~~+~~. If the 35227
applicant has any storage locations approved in accordance with 35228
division (I) of section 3743.04 of the Revised Code, the applicant 35229
also shall submit a fee of one hundred dollars per storage 35230
location for the inspection of each storage location. 35231

(2) Proof of comprehensive general liability insurance 35232
coverage, specifically including fire and smoke casualty on 35233
premises and products, in an amount not less than one million 35234
dollars for each occurrence for bodily injury liability and 35235
wrongful death liability at the fireworks plant. All applicants 35236
shall submit evidence of comprehensive general liability insurance 35237
coverage verified by the insurer and certified as to its provision 35238
of the minimum coverage required under this division. 35239

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A separate application for licensure as a manufacturer of fireworks shall be submitted for each fireworks plant that a person wishes to operate in this state.

(D) If an applicant intends to include the processing of fireworks as any part of its proposed manufacturing of fireworks, a statement indicating that intent shall be included in its application for licensure.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the fire marshal in writing. The fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed

construction, location, relocation, structural change or 35271
renovation, or change in manufacturing of fireworks, if the fire 35272
marshal determines the documentation is necessary for evaluation 35273
purposes in light of the proposed construction, location, 35274
relocation, structural change or renovation, or change in 35275
manufacturing of fireworks. 35276

Upon receipt of the notification and additional documentation 35277
required by the fire marshal, the fire marshal shall inspect the 35278
premises of the fireworks plant to determine if the proposed 35279
construction, location, relocation, structural change or 35280
renovation, or change in manufacturing of fireworks conforms to 35281
sections 3743.02 to 3743.08 of the Revised Code and the rules 35282
adopted by the fire marshal pursuant to section 3743.05 of the 35283
Revised Code. The fire marshal shall issue a written authorization 35284
to the manufacturer for the construction, location, relocation, 35285
structural change or renovation, or change in manufacturing of 35286
fireworks if the fire marshal determines, upon the inspection and 35287
a review of submitted documentation, that the construction, 35288
location, relocation, structural change or renovation, or change 35289
in manufacturing of fireworks conforms to those sections and 35290
rules. Upon authorizing a change in manufacturing of fireworks to 35291
include the processing of fireworks, the fire marshal shall make 35292
notations on the manufacturer's license and in the list of 35293
licensed manufacturers in accordance with section 3743.03 of the 35294
Revised Code. 35295

On or before June 1, 1998, a licensed manufacturer shall 35296
install, in every licensed building in which fireworks are 35297
manufactured, stored, or displayed and to which the public has 35298
access, interlinked fire detection, smoke exhaust, and smoke 35299
evacuation systems that are approved by the superintendent of the 35300
division of industrial compliance, and shall comply with floor 35301
plans showing occupancy load limits and internal circulation and 35302

egress patterns that are approved by the fire marshal and 35303
superintendent, and that are submitted under seal as required by 35304
section 3791.04 of the Revised Code. Notwithstanding section 35305
3743.59 of the Revised Code, the construction and safety 35306
requirements established in this division are not subject to any 35307
variance, waiver, or exclusion. 35308

(C) The license of a manufacturer of fireworks authorizes the 35309
manufacturer to engage only in the following activities: 35310

(1) The manufacturing of fireworks on the premises of the 35311
fireworks plant as described in the application for licensure or 35312
in the notification submitted under division (B) of this section, 35313
except that a licensed manufacturer shall not engage in the 35314
processing of fireworks unless authorized to do so by its license. 35315

(2) To possess for sale at wholesale and sell at wholesale 35316
the fireworks manufactured by the manufacturer, to persons who are 35317
licensed wholesalers of fireworks, to out-of-state residents in 35318
accordance with section 3743.44 of the Revised Code, to residents 35319
of this state in accordance with section 3743.45 of the Revised 35320
Code, or to persons located in another state provided the 35321
fireworks are shipped directly out of this state to them by the 35322
manufacturer. A person who is licensed as a manufacturer of 35323
fireworks on June 14, 1988, also may possess for sale and sell 35324
pursuant to division (C)(2) of this section fireworks other than 35325
those the person manufactures. The possession for sale shall be on 35326
the premises of the fireworks plant described in the application 35327
for licensure or in the notification submitted under division (B) 35328
of this section, and the sale shall be from the inside of a 35329
licensed building and from no other structure or device outside a 35330
licensed building. At no time shall a licensed manufacturer sell 35331
any class of fireworks outside a licensed building. 35332

(3) Possess for sale at retail and sell at retail the 35333

fireworks manufactured by the manufacturer, other than 1.4G 35334
fireworks as designated by the fire marshal in rules adopted 35335
pursuant to division (A) of section 3743.05 of the Revised Code, 35336
to licensed exhibitors in accordance with sections 3743.50 to 35337
3743.55 of the Revised Code, and possess for sale at retail and 35338
sell at retail the fireworks manufactured by the manufacturer, 35339
including 1.4G fireworks, to out-of-state residents in accordance 35340
with section 3743.44 of the Revised Code, to residents of this 35341
state in accordance with section 3743.45 of the Revised Code, or 35342
to persons located in another state provided the fireworks are 35343
shipped directly out of this state to them by the manufacturer. A 35344
person who is licensed as a manufacturer of fireworks on June 14, 35345
1988, may also possess for sale and sell pursuant to division 35346
(C)(3) of this section fireworks other than those the person 35347
manufactures. The possession for sale shall be on the premises of 35348
the fireworks plant described in the application for licensure or 35349
in the notification submitted under division (B) of this section, 35350
and the sale shall be from the inside of a licensed building and 35351
from no other structure or device outside a licensed building. At 35352
no time shall a licensed manufacturer sell any class of fireworks 35353
outside a licensed building. 35354

A licensed manufacturer of fireworks shall sell under 35355
division (C) of this section only fireworks that meet the 35356
standards set by the consumer product safety commission or by the 35357
American fireworks standard laboratories or that have received an 35358
EX number from the United States department of transportation. 35359

(D) The license of a manufacturer of fireworks shall be 35360
protected under glass and posted in a conspicuous place on the 35361
premises of the fireworks plant. Except as otherwise provided in 35362
this division, the license is not transferable or assignable. A 35363
license may be transferred to another person for the same 35364
fireworks plant for which the license was issued if the assets of 35365

the plant are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the fire marshal by the manufacturer, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or

reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the fire marshal in accordance with rules the fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of

zoning compliance as applicable and a valid certificate of 35429
occupancy for each building or structure at the storage location 35430
issued by the authority having jurisdiction to issue the 35431
certificate for the storage location, and those certificates 35432
permit the distribution and storage of fireworks regulated under 35433
this chapter at the storage location and in the buildings or 35434
structures. The storage location shall be in compliance with all 35435
other applicable federal, state, and local laws and regulations. 35436

(d) Every building or structure located upon the storage 35437
location is separated from occupied residential and nonresidential 35438
buildings or structures, railroads, highways, or any other 35439
buildings or structures on the licensed premises in accordance 35440
with the distances specified in the rules adopted by the fire 35441
marshal pursuant to section 3743.05 of the Revised Code. 35442

(e) Neither the licensee nor any person holding, owning, or 35443
controlling a five per cent or greater beneficial or equity 35444
interest in the licensee has been convicted of or pleaded guilty 35445
to a felony under the laws of this state, any other state, or the 35446
United States, after the effective date of this amendment. 35447

(f) The fire marshal approves the application for expansion. 35448

(2) The fire marshal shall approve an application for 35449
expansion requested under division (I)(1) of this section if the 35450
fire marshal receives the application fee and proof that the 35451
requirements of divisions (I)(1)(b) to (e) of this section are 35452
satisfied. The storage location shall be considered part of the 35453
original licensed premises and shall use the same distinct number 35454
assigned to the original licensed premises with any additional 35455
designations as the fire marshal deems necessary in accordance 35456
with section 3743.03 of the Revised Code. 35457

(J)(1) A licensee who obtains approval for the use of a 35458
storage location in accordance with division (I) of this section 35459

shall use the storage location exclusively for the following 35460
activities, in accordance with division (C) of this section: 35461

(a) The packaging, assembling, or storing of fireworks, which 35462
shall only occur in buildings, structures, or trailers approved 35463
for such hazardous uses by the building code official having 35464
jurisdiction for the storage location and shall be in accordance 35465
with the rules adopted by the fire marshal under division (G) of 35466
section 3743.05 of the Revised Code for the packaging, assembling, 35467
and storage of fireworks. 35468

(b) Distributing fireworks to other parcels of real estate 35469
located on the manufacturer's licensed premises, to licensed 35470
wholesalers or other licensed manufacturers in this state or to 35471
similarly licensed persons located in another state or country; 35472

(c) Distributing fireworks to a licensed exhibitor of 35473
fireworks pursuant to a properly issued permit in accordance with 35474
section 3743.54 of the Revised Code. 35475

(2) A licensed manufacturer shall not engage in any sales 35476
activity, including the retail sale of fireworks otherwise 35477
permitted under division (C)(2) or (C)(3) of this section, or 35478
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 35479
storage location approved under this section. 35480

(K) The licensee shall prohibit public access to the storage 35481
location. The fire marshal shall adopt rules to describe the 35482
acceptable measures a manufacturer shall use to prohibit access to 35483
the storage site. 35484

Sec. 3743.05. The fire marshal shall adopt rules in 35485
accordance with Chapter 119. of the Revised Code governing the 35486
classification of fireworks that are consistent with the 35487
classification of fireworks by the United States department of 35488
transportation as set forth in Title 49, Code of Federal 35489

Regulations, and the manufacture of fireworks and the storage of 35490
manufactured fireworks by licensed manufacturers of fireworks. The 35491
rules shall be designed to promote the safety and security of 35492
employees of manufacturers, members of the public, and the 35493
fireworks plant. 35494

The rules shall be consistent with sections 3743.02 to 35495
3743.08 of the Revised Code, shall be substantially equivalent to 35496
the most recent versions of chapters 1123, 1124, and 1126 of the 35497
most recent national fire protection association standards, and 35498
shall apply to, but not be limited to, the following subject 35499
matters: 35500

(A) A classification of fireworks by number and letter 35501
designation, including, specifically, a 1.4G designation of 35502
fireworks. The classes of fireworks established by the fire 35503
marshal shall be substantially equivalent to those defined by the 35504
United States department of transportation by regulation, except 35505
that, if the fire marshal determines that a type of fireworks 35506
designated as common fireworks by the United States department of 35507
transportation meets the criteria of any class of fireworks, other 35508
than 1.4G fireworks, as adopted by the fire marshal pursuant to 35509
this section, the fire marshal may include the type of fireworks 35510
in the other class instead of 1.4G. 35511

(B) Appropriate standards for the manufacturing of types of 35512
fireworks that are consistent with standards adopted by the United 35513
States department of transportation and the consumer product 35514
safety commission, including, but not limited to, the following: 35515

(1) Permissible amounts of pyrotechnic or explosive 35516
composition; 35517

(2) Interior and exterior dimensions; 35518

(3) Structural specifications. 35519

(C) Cleanliness and orderliness in, the heating, lighting, 35520

and use of stoves and flame-producing items in, smoking in, the
prevention of fire and explosion in, the availability of fire
extinguishers or other fire-fighting equipment and their use in,
and emergency procedures relative to the buildings and other
structures located on the premises of a fireworks plant.

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(D) Appropriate uniforms to be worn by employees of
manufacturers in the course of the manufacturing, handling, and
storing of fireworks, and the use of protective clothing and
equipment by the employees.

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(E) The manner in which fireworks are to be packed, packaged,
and stored.

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(F) Required distances between buildings or structures used
in the manufacturing, storage, or sale of fireworks and occupied
residential and nonresidential buildings or structures, railroads,
highways, or any additional buildings or structures located on the
licensed premises. The rules adopted pursuant to this division do
not apply to factory buildings in fireworks plants that were
erected on or before May 30, 1986, and that were legally being
used for fireworks activities under authority of a valid license
issued by the fire marshal as of December 1, 1990, pursuant to
sections 3743.03 and 3743.04 of the Revised Code.

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(G) Requirements for the operation of storage locations,
including packaging, assembling, and storage of fireworks.

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Sec. 3743.06. In addition to conforming to the rules of the
fire marshal adopted pursuant to section 3743.05 of the Revised
Code, licensed manufacturers of fireworks shall operate their
fireworks plants in accordance with the following:

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(A) Signs indicating that smoking is generally forbidden and
trespassing is prohibited on the premises of a fireworks plant
shall be posted on the premises in a manner determined by the fire

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marshal. 35551

(B) Reasonable precautions shall be taken to protect the 35552
premises of a fireworks plant from trespass, loss, theft, or 35553
destruction. Only persons employed by the manufacturer, authorized 35554
governmental personnel, and persons who have obtained permission 35555
from a member of the manufacturer's office to be on the premises, 35556
are to be allowed to enter and remain on the premises. 35557

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 35558
matches, lighters, other flame-producing items, or open flame on, 35559
or the carrying of a concealed source of ignition into, the 35560
premises of a fireworks plant is prohibited, except that a 35561
manufacturer may permit smoking in specified lunchrooms or 35562
restrooms in buildings or other structures in which no 35563
manufacturing, handling, sales, or storage of fireworks takes 35564
place. "NO SMOKING" signs shall be posted on the premises as 35565
required by the fire marshal. 35566

(D) Fire and explosion prevention and other reasonable safety 35567
measures and precautions shall be implemented by a manufacturer. 35568

(E) Persons shall not be permitted to have in their 35569
possession or under their control, while they are on the premises 35570
of the fireworks plant, any intoxicating liquor, beer, or 35571
controlled substance, and they shall not be permitted to enter or 35572
remain on the premises if they are found to be under the influence 35573
of any intoxicating liquor, beer, or controlled substance. 35574

(F) A manufacturer shall conform to all building, safety, and 35575
zoning statutes, ordinances, rules, or other enactments that apply 35576
to the premises of its fireworks plant. 35577

(G) ~~No building used in the manufacture, storage, or sale of 35578
fireworks shall be situated nearer than one thousand feet to any 35579
structure that is not located on the property of and that does not 35580
belong to the licensed fireworks manufacturer, or nearer than 35581~~

~~three hundred feet to any highway or railroad, or nearer than one 35582
hundred feet to any building used for the storage of explosives or 35583
fireworks, or nearer than fifty feet to any factory building. This 35584
division does not apply to factory buildings in fireworks plants 35585
that were erected on or before May 30, 1986, and that were legally 35586
being used for fireworks activities under authority of a valid 35587
license issued by the fire marshal as of December 1, 1990, 35588
pursuant to sections 3743.03 and 3743.04 of the Revised Code. 35589~~

~~(H)~~ Each fireworks plant shall have at least one class 1 35590
magazine that is approved by the bureau of alcohol, tobacco, and 35591
firearms of the United States department of the treasury and that 35592
is otherwise in conformity with federal law. This division does 35593
not apply to fireworks plants existing on or before August 3, 35594
1931. 35595

~~(I)~~(H) Awnings, tents, and canopies shall not be used as 35596
facilities for the sale or storage of fireworks. This division 35597
does not prohibit the use of an awning or canopy attached to a 35598
public access showroom for storing nonflammable shopping 35599
convenience items such as shopping carts or baskets or providing a 35600
shaded area for patrons waiting to enter the public sales area. 35601

~~(J)~~(I) Fireworks may be stored in trailers if the trailers 35602
are properly enclosed, secured, and grounded and are separated 35603
from any structure to which the public is admitted by a distance 35604
that will, in the fire marshal's judgment, allow fire-fighting 35605
equipment to have full access to the structures on the licensed 35606
premises. Such trailers may be moved into closer proximity to any 35607
structure only to accept or discharge cargo for a period not to 35608
exceed forty-eight hours. Only two such trailers may be placed in 35609
such closer proximity at any one time. At no time may trailers be 35610
used for conducting sales of any class of fireworks, nor may 35611
members of the public have access to the trailers. 35612

Storage areas for fireworks that are in the same building 35613

where fireworks are displayed and sold to the public shall be 35614
separated from the areas to which the public has access by an 35615
appropriately rated fire wall. 35616

~~(K)~~(J) A fire suppression system as defined in section 35617
3781.108 of the Revised Code may be turned off only for repair, 35618
drainage of the system to prevent damage by freezing during the 35619
period of time, approved by the fire marshal, that the facility is 35620
closed to all public access during winter months, or maintenance 35621
of the system. If any repair or maintenance is necessary during 35622
times when the facility is open for public access and business as 35623
approved by the fire marshal, the licensed manufacturer shall 35624
notify in advance the appropriate insurance company and fire chief 35625
or fire prevention officer regarding the nature of the maintenance 35626
or repair and the time when it will be performed. 35627

~~(L)~~(K) If any fireworks item is removed from its original 35628
package or is manufactured with any fuse other than a safety fuse 35629
approved by the consumer product safety commission, then the item 35630
shall be covered completely by repackaging or bagging or it shall 35631
otherwise be covered so as to prevent ignition prior to sale. 35632

~~(M)~~(L) A safety officer shall be present during regular 35633
business hours at a building open to the public during the period 35634
commencing fourteen days before, and ending two days after, each 35635
fourth day of July. The officer shall be highly visible, enforce 35636
this chapter and any applicable building codes to the extent the 35637
officer is authorized by law, and be one of the following: 35638

(1) A deputy sheriff; 35639

(2) A law enforcement officer of a municipal corporation, 35640
township, or township or joint township police district; 35641

(3) A private uniformed security guard registered under 35642
section 4749.06 of the Revised Code. 35643

~~(N)~~(M) All doors of all buildings on the licensed premises shall swing outward. 35644
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~~(O)~~(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale. 35646
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Sec. 3743.15. (A) Except as provided in division (C) of this section, any person who wishes to be a wholesaler of fireworks in this state shall submit to the fire marshal an application for licensure as a wholesaler of fireworks before the first day of October of each year. The application shall be submitted prior to commencement of business operations, shall be on a form prescribed by the fire marshal, shall contain all information requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and proof of insurance coverage described in division (B) of this section. 35657
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The fire marshal shall prescribe a form for applications for licensure as a wholesaler of fireworks and make a copy of the form available, upon request, to persons who seek that licensure. 35667
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(B) An applicant for licensure as a wholesaler of fireworks shall submit with the application all of the following: 35670
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(1) A license fee of two thousand seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks 35672
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safety education, training programs, and inspections~~+~~. If the applicant has any storage locations approved in accordance with division (G) of section 3743.17 of the Revised Code, the applicant also shall submit a fee of one hundred dollars per storage location for the inspection of each storage location.

(2) Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at its business location. Proof of such insurance coverage shall be submitted together with proof of coverage for products liability on all inventory located at the business location. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A licensed manufacturer of fireworks is not required to apply for and obtain a wholesaler of fireworks license in order to engage in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code. A business which is not a licensed manufacturer of fireworks may engage in the wholesale and retail sale of fireworks in the same manner as a licensed manufacturer of fireworks is authorized to do under this chapter without the necessity of applying for and obtaining a license pursuant to this section, but only if the business sells the fireworks on the premises of a fireworks plant covered by a license issued under section 3743.03 of the Revised Code and the holder of that license owns at least a majority interest in that

business. However, if a licensed manufacturer of fireworks wishes
to engage in the wholesale sale of fireworks in this state at a
location other than the premises of the fireworks plant described
in its application for licensure as a manufacturer or in a
notification submitted under division (B) of section 3743.04 of
the Revised Code, the manufacturer shall first apply for and
obtain a wholesaler of fireworks license before engaging in
wholesale sales of fireworks at the other location.

(D) A separate application for licensure as a wholesaler of
fireworks shall be submitted for each location at which a person
wishes to engage in wholesale sales of fireworks.

Sec. 3743.17. (A) The license of a wholesaler of fireworks is
effective for one year beginning on the first day of December. The
fire marshal shall issue or renew a license only on that date and
at no other time. If a wholesaler of fireworks wishes to continue
engaging in the wholesale sale of fireworks at the particular
location after its then effective license expires, it shall apply
not later than the first day of October for a new license pursuant
to section 3743.15 of the Revised Code. The fire marshal shall
send a written notice of the expiration of its license to a
licensed wholesaler at least three months before the expiration
date.

(B) If, during the effective period of its licensure, a
licensed wholesaler of fireworks wishes to perform any
construction, or make any structural change or renovation, on the
premises on which the fireworks are sold, the wholesaler shall
notify the fire marshal in writing. The fire marshal may require a
licensed wholesaler also to submit documentation, including, but
not limited to, plans covering the proposed construction or
structural change or renovation, if the fire marshal determines
the documentation is necessary for evaluation purposes in light of

the proposed construction or structural change or renovation. 35737

Upon receipt of the notification and additional documentation 35738
required by the fire marshal, the fire marshal shall inspect the 35739
premises on which the fireworks are sold to determine if the 35740
proposed construction or structural change or renovation conforms 35741
to sections 3743.15 to 3743.21 of the Revised Code and the rules 35742
adopted by the fire marshal pursuant to section 3743.18 of the 35743
Revised Code. The fire marshal shall issue a written authorization 35744
to the wholesaler for the construction or structural change or 35745
renovation if the fire marshal determines, upon the inspection and 35746
a review of submitted documentation, that the construction or 35747
structural change or renovation conforms to those sections and 35748
rules. 35749

(C) The license of a wholesaler of fireworks authorizes the 35750
wholesaler to engage only in the following activities: 35751

(1) Possess for sale at wholesale and sell at wholesale 35752
fireworks to persons who are licensed wholesalers of fireworks, to 35753
out-of-state residents in accordance with section 3743.44 of the 35754
Revised Code, to residents of this state in accordance with 35755
section 3743.45 of the Revised Code, or to persons located in 35756
another state provided the fireworks are shipped directly out of 35757
this state to them by the wholesaler. The possession for sale 35758
shall be at the location described in the application for 35759
licensure or in the notification submitted under division (B) of 35760
this section, and the sale shall be from the inside of a licensed 35761
building and from no structure or device outside a licensed 35762
building. At no time shall a licensed wholesaler sell any class of 35763
fireworks outside a licensed building. 35764

(2) Possess for sale at retail and sell at retail fireworks, 35765
other than 1.4G fireworks as designated by the fire marshal in 35766
rules adopted pursuant to division (A) of section 3743.05 of the 35767

Revised Code, to licensed exhibitors in accordance with sections 35768
3743.50 to 3743.55 of the Revised Code, and possess for sale at 35769
retail and sell at retail fireworks, including 1.4G fireworks, to 35770
out-of-state residents in accordance with section 3743.44 of the 35771
Revised Code, to residents of this state in accordance with 35772
section 3743.45 of the Revised Code, or to persons located in 35773
another state provided the fireworks are shipped directly out of 35774
this state to them by the wholesaler. The possession for sale 35775
shall be at the location described in the application for 35776
licensure or in the notification submitted under division (B) of 35777
this section, and the sale shall be from the inside of the 35778
licensed building and from no other structure or device outside 35779
this licensed building. At no time shall a licensed wholesaler 35780
sell any class of fireworks outside a licensed building. 35781

A licensed wholesaler of fireworks shall sell under division 35782
(C) of this section only fireworks that meet the standards set by 35783
the consumer product safety commission or by the American 35784
fireworks standard laboratories or that have received an EX number 35785
from the United States department of transportation. 35786

(D)~~(1)~~ The license of a wholesaler of fireworks shall be 35787
protected under glass and posted in a conspicuous place at the 35788
location described in the application for licensure or in the 35789
notification submitted under division (B) of this section. Except 35790
as otherwise provided in this ~~division~~ section, the license is not 35791
transferable or assignable. A license may be transferred to 35792
another person for the same location for which the license was 35793
issued if the assets of the wholesaler are transferred to that 35794
person by inheritance or by a sale approved by the fire marshal. 35795
The license is subject to revocation in accordance with section 35796
3743.21 of the Revised Code. 35797

~~(2)~~(E) The fire marshal shall adopt rules for the expansion 35798
or contraction of a licensed premises and for the approval of an 35799

expansion or contraction. The boundaries of a licensed premises, 35800
including any geographic expansion or contraction of those 35801
boundaries, shall be approved by the fire marshal in accordance 35802
with rules the fire marshal adopts. If the licensed premises of a 35803
licensed wholesaler from which the wholesaler operates consists of 35804
more than one parcel of real estate, those parcels must be 35805
contiguous, unless an exception is allowed pursuant to division 35806
(G) of this section. 35807

(F)(1) Upon application by a licensed wholesaler of 35808
fireworks, a wholesaler license may be transferred from one 35809
geographic location to another within the same municipal 35810
corporation or within the unincorporated area of the same 35811
township, but only if all of the following apply: 35812

(a) The identity of the holder of the license remains the 35813
same in the new location. 35814

(b) The former location is closed prior to the opening of the 35815
new location and no fireworks business of any kind is conducted at 35816
the former location after the transfer of the license. 35817

(c) The new location has received a local certificate of 35818
zoning compliance and a local certificate of occupancy, and 35819
otherwise is in compliance with all local building regulations. 35820

(d) The transfer of the license is requested by the licensee 35821
because the existing facility poses an immediate hazard to the 35822
public. 35823

(e) ~~Any~~ Every building or structure at the new location is 35824
~~situated no closer than one thousand feet to any property line or~~ 35825
~~structure that does not belong to the licensee requesting the~~ 35826
~~transfer, no closer than three hundred feet to any highway or~~ 35827
~~railroad, no closer than one hundred feet to any building used for~~ 35828
~~the storage of explosives or fireworks by the licensee, no closer~~ 35829
~~than fifty feet to any factory building owned or used by the~~ 35830

licensee, and no closer than two thousand feet to any building 35831
used for the sale, storage, or manufacturing of fireworks that 35832
does not belong to the licensee separated from occupied 35833
residential and nonresidential buildings or structures, railroads, 35834
highways, or any other buildings or structures located on the 35835
licensed premises in accordance with the distances specified in 35836
the rules adopted by the fire marshal pursuant to section 3743.18 35837
of the Revised Code. If the licensee fails to comply with the 35838
requirements of division ~~(D)(2)(e)~~(F)(1)(e) of this section by the 35839
licensee's own act, the license at the new location is forfeited. 35840

(f) Neither the licensee nor any person holding, owning, or 35841
controlling a five per cent or greater beneficial or equity 35842
interest in the licensee has been convicted of or has pleaded 35843
guilty to a felony under the laws of this state, any other state, 35844
or the United States after ~~the effective date of this amendment~~ 35845
June 30, 1997. 35846

(g) The fire marshal approves the request for the transfer. 35847

(2) The new location shall comply with the requirements 35848
specified in divisions (A)(1) and (2) of section 3743.25 of the 35849
Revised Code whether or not the fireworks showroom at the new 35850
location is constructed, expanded, or first begins operating on 35851
and after ~~the effective date of this amendment~~ June 30, 1997. 35852

~~(E)~~(G)(1) A licensed wholesaler may expand its licensed 35853
premises within this state to include not more than two storage 35854
locations that are located upon one or more real estate parcels 35855
that are noncontiguous to the licensed premises as that licensed 35856
premises exists on the date a licensee submits an application as 35857
described below, if all of the following apply: 35858

(a) The licensee submits an application to the fire marshal 35859
requesting the expansion and an application fee of one hundred 35860
dollars per storage location for which the licensee is requesting 35861

approval. 35862

(b) The identity of the holder of the license remains the same at the storage location. 35863
35864

(c) The storage location has received a valid certificate of zoning compliance, as applicable, and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations. 35865
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(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, and any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. 35874
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(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after the effective date of this amendment. 35880
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(f) The fire marshal approves the application for expansion. 35885

(2) The fire marshal shall approve an application for expansion requested under division (G)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (G)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional 35886
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designations as the fire marshal deems necessary in accordance 35893
with section 3743.16 of the Revised Code. 35894

(H)(1) A licensee who obtains approval for use of a storage 35895
location in accordance with division (G) of this section shall use 35896
the site exclusively for the following activities, in accordance 35897
with division (C)(1) of this section: 35898

(a) Packaging, assembling, or storing fireworks, which shall 35899
occur only in buildings approved for such hazardous uses by the 35900
building code official having jurisdiction for the storage 35901
location and shall be in accordance with the rules adopted by the 35902
fire marshal under division (B)(4) of section 3743.18 of the 35903
Revised Code for the packaging, assembling, and storage of 35904
fireworks. 35905

(b) Distributing fireworks to other parcels of real estate 35906
located on the wholesaler's licensed premises, to licensed 35907
manufacturers or other licensed wholesalers in this state or to 35908
similarly licensed persons located in another state or country; 35909

(c) Distributing fireworks to a licensed exhibitor of 35910
fireworks pursuant to a properly issued permit in accordance with 35911
section 3743.54 of the Revised Code. 35912

(2) A licensed wholesaler shall not engage in any sales 35913
activity, including the retail sale of fireworks otherwise 35914
permitted under division (C)(2) of this section or pursuant to 35915
section 3743.44 or 3743.45 of the Revised Code, at a storage 35916
location approved under this section. 35917

(I) A licensee shall prohibit public access to all storage 35918
locations it uses. The fire marshal shall adopt rules establishing 35919
acceptable measures a wholesaler shall use to prohibit access to 35920
storage sites. 35921

(J) The fire marshal shall not place the license of a 35922

wholesaler of fireworks in temporarily inactive status while the 35923
holder of the license is attempting to qualify to retain the 35924
license. 35925

~~(F)~~(K) Each licensed wholesaler of fireworks or a designee of 35926
the wholesaler, whose identity is provided to the fire marshal by 35927
the wholesaler, annually shall attend a continuing education 35928
program consisting of not less than eight hours of instruction. 35929
The fire marshal shall develop the program and the fire marshal or 35930
a person or public agency approved by the fire marshal shall 35931
conduct it. A licensed wholesaler or the wholesaler's designee who 35932
attends a program as required under this division, within one year 35933
after attending the program, shall conduct in-service training for 35934
other employees of the licensed wholesaler regarding the 35935
information obtained in the program. A licensed wholesaler shall 35936
provide the fire marshal with notice of the date, time, and place 35937
of all in-service training not less than thirty days prior to an 35938
in-service training event. 35939

~~(G)~~(L) A licensed wholesaler shall maintain comprehensive 35940
general liability insurance coverage in the amount and type 35941
specified under division (B)(2) of section 3743.15 of the Revised 35942
Code at all times. Each policy of insurance required under this 35943
division shall contain a provision requiring the insurer to give 35944
not less than fifteen days' prior written notice to the fire 35945
marshal before termination, lapse, or cancellation of the policy, 35946
or any change in the policy that reduces the coverage below the 35947
minimum required under this division. Prior to canceling or 35948
reducing the amount of coverage of any comprehensive general 35949
liability insurance coverage required under this division, a 35950
licensed wholesaler shall secure supplemental insurance in an 35951
amount and type that satisfies the requirements of this division 35952
so that no lapse in coverage occurs at any time. A licensed 35953
wholesaler who secures supplemental insurance shall file evidence 35954

of the supplemental insurance with the fire marshal prior to 35955
canceling or reducing the amount of coverage of any comprehensive 35956
general liability insurance coverage required under this division. 35957

Sec. 3743.18. (A) The fire marshal shall adopt rules pursuant 35958
to Chapter 119. of the Revised Code governing the storage of 35959
fireworks by and the business operations of licensed wholesalers 35960
of fireworks. These rules shall be designed to promote the safety 35961
and security of employees of wholesalers, members of the public, 35962
and the premises upon which fireworks are sold. 35963

(B) The rules shall be consistent with sections 3743.15 to 35964
3743.21 of the Revised Code, shall be substantially equivalent to 35965
the most recent versions of chapters 1123, 1124, and 1126 of the 35966
most recent national fire protection association standards, and 35967
shall apply to, but not be limited to, the following subject 35968
matters: 35969

~~(A)~~(1) Cleanliness and orderliness in, the heating, lighting, 35970
and use of stoves and flame-producing items in, smoking in, the 35971
prevention of fire and explosion in, the availability of fire 35972
extinguishers or other fire-fighting equipment and their use in, 35973
and emergency procedures relative to the buildings and other 35974
structures on a wholesaler's premises-; 35975

~~(B)~~(2) Appropriate uniforms to be worn by employees of 35976
wholesalers in the course of handling and storing of fireworks, 35977
and the use of protective clothing and equipment by the 35978
employees-; 35979

~~(C)~~(3) The manner in which fireworks are to be stored; 35980

(4) Required distances between buildings or structures used 35981
in the manufacturing, storage, or sale of fireworks and occupied 35982
residential and nonresidential buildings or structures, railroads, 35983
highways, or any additional buildings or structures on a licensed 35984

premises. 35985

(5) Requirements for the operation of storage locations, 35986
including packaging, assembling, and storage of fireworks. 35987

(C) Rules adopted pursuant to division (B)(4) of this section 35988
do not apply to buildings that were erected on or before May 30, 35989
1986, and that were legally being used for fireworks activities 35990
under authority of a valid license issued by the fire marshal as 35991
of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of 35992
the Revised Code. 35993

Sec. 3743.19. In addition to conforming to the rules of the 35994
fire marshal adopted pursuant to section 3743.18 of the Revised 35995
Code, licensed wholesalers of fireworks shall conduct their 35996
business operations in accordance with the following: 35997

(A) A wholesaler shall conduct its business operations from 35998
the location described in its application for licensure or in a 35999
notification submitted under division (B) of section 3743.17 of 36000
the Revised Code. 36001

(B) Signs indicating that smoking is generally forbidden and 36002
trespassing is prohibited on the premises of a wholesaler shall be 36003
posted on the premises as determined by the fire marshal. 36004

(C) Reasonable precautions shall be taken to protect the 36005
premises of a wholesaler from trespass, loss, theft, or 36006
destruction. 36007

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 36008
matches, lighters, other flame-producing items, or open flame on, 36009
or the carrying of a concealed source of ignition into, the 36010
premises of a wholesaler is prohibited, except that a wholesaler 36011
may permit smoking in specified lunchrooms or restrooms in 36012
buildings or other structures in which no sales, handling, or 36013
storage of fireworks takes place. "NO SMOKING" signs shall be 36014

posted on the premises as required by the fire marshal. 36015

(E) Fire and explosion prevention and other reasonable safety 36016
measures and precautions shall be implemented by a wholesaler. 36017

(F) Persons shall not be permitted to have in their 36018
possession or under their control, while they are on the premises 36019
of a wholesaler, any intoxicating liquor, beer, or controlled 36020
substance, and they shall not be permitted to enter or remain on 36021
the premises if they are found to be under the influence of any 36022
intoxicating liquor, beer, or controlled substance. 36023

(G) A wholesaler shall conform to all building, safety, and 36024
zoning statutes, ordinances, rules, or other enactments that apply 36025
to its premises. 36026

~~(H) No building used in the storage or sale of fireworks 36027
shall be situated nearer than one thousand feet to any structure 36028
that is not located on the property of and that does not belong to 36029
the licensed fireworks wholesaler, nearer than three hundred feet 36030
to any highway or railroad, or nearer than one hundred feet to any 36031
building used for the storage of explosives or fireworks. This 36032
division does not apply to buildings that were erected on or 36033
before May 30, 1986, and that were legally being used for 36034
fireworks activities under authority of a valid license issued by 36035
the fire marshal as of December 1, 1990, pursuant to sections 36036
3743.16 and 3743.17 of the Revised Code. 36037~~

~~(I)~~ Each building used in the sale of fireworks shall be kept 36038
open to the public for at least four hours each day between the 36039
hours of eight a.m. and five p.m., five days of each week, every 36040
week of the year. Upon application from a licensed wholesaler, the 36041
fire marshal may waive any of the requirements of this division. 36042

~~(J)~~(I) Awnings, tents, or canopies shall not be used as 36043
facilities for the storage or sale of fireworks. This division 36044
does not prohibit the use of an awning or canopy attached to a 36045

public access showroom for storing nonflammable shopping 36046
convenience items such as shopping carts or baskets or providing a 36047
shaded area for patrons waiting to enter the public sales area. 36048

~~(K)~~(J) Fireworks may be stored in trailers if the trailers 36049
are properly enclosed, secured, and grounded and are separated 36050
from any structure to which the public is admitted by a distance 36051
that will, in the fire marshal's judgment, allow fire-fighting 36052
equipment to have full access to the structures on the licensed 36053
premises. Such trailers may be moved into closer proximity to any 36054
structure only to accept or discharge cargo for a period not to 36055
exceed forty-eight hours. Only two such trailers may be placed in 36056
such closer proximity at any one time. At no time may trailers be 36057
used for conducting sales of any class of fireworks nor may 36058
members of the public have access to the trailers. 36059

Storage areas for fireworks that are in the same building 36060
where fireworks are displayed and sold to the public shall be 36061
separated from the areas to which the public has access by an 36062
appropriately rated fire wall. 36063

~~(L)~~(K) A fire suppression system as defined in section 36064
3781.108 of the Revised Code may be turned off only for repair, 36065
drainage of the system to prevent damage by freezing during the 36066
period of time, approved by the fire marshal under division (I) of 36067
this section, that the facility is closed to public access during 36068
winter months, or maintenance of the system. If any repair or 36069
maintenance is necessary during times when the facility is open 36070
for public access and business, the licensed wholesaler shall 36071
notify in advance the appropriate insurance company and fire chief 36072
or fire prevention officer regarding the nature of the maintenance 36073
or repair and the time when it will be performed. 36074

~~(M)~~(L) If any fireworks item is removed from its original 36075
package or is manufactured with any fuse other than a fuse 36076
approved by the consumer product safety commission, then the item 36077

shall be covered completely by repackaging or bagging or it shall 36078
otherwise be covered so as to prevent ignition prior to sale. 36079

~~(N)~~(M) A safety officer shall be present during regular 36080
business hours at a building open to the public during the period 36081
commencing fourteen days before, and ending two days after, each 36082
fourth day of July. The officer shall be highly visible, enforce 36083
this chapter and any applicable building codes to the extent the 36084
officer is authorized by law, and be one of the following: 36085

(1) A deputy sheriff; 36086

(2) A law enforcement officer of a municipal corporation, 36087
township, or township or joint township police district; 36088

(3) A private uniformed security guard registered under 36089
section 4749.06 of the Revised Code. 36090

~~(O)~~(N) All doors of all buildings on the licensed premises 36091
shall swing outward. 36092

~~(P)~~(O) All wholesale and commercial sales of fireworks shall 36093
be packaged, shipped, placarded, and transported in accordance 36094
with United States department of transportation regulations 36095
applicable to the transportation, and the offering for 36096
transportation, of hazardous materials. For purposes of this 36097
division, "wholesale and commercial sales" includes all sales for 36098
resale and any nonretail sale made in furtherance of a commercial 36099
enterprise. For purposes of enforcement of these regulations under 36100
section 4905.83 of the Revised Code, any sales transaction 36101
exceeding one thousand pounds shall be rebuttably presumed to be a 36102
wholesale or commercial sale. 36103

Sec. 3743.57. (A) All fees collected by the fire marshal for 36104
licenses or permits issued pursuant to this chapter shall be 36105
deposited into the state fire marshal's fund, and interest earned 36106
on the amounts in the fund shall be credited by the treasurer of 36107

state to the fund. 361108

~~(B) There is hereby established in the state treasury the 361109
fire marshal's fireworks training and education fund. The fire 361110
marshal shall deposit all assessments paid under this division 361111
into the state treasury to the credit of the fund. Each fireworks 361112
manufacturer and fireworks wholesaler licensed under this chapter 361113
shall pay assessments to the fire marshal for deposit into the 361114
fund as required by this division. 361115~~

~~The fire marshal shall impose an initial assessment upon each 361116
licensed fireworks manufacturer and wholesaler in order to 361117
establish a fund balance of fifteen thousand dollars. The fund 361118
balance shall at no time exceed fifteen thousand dollars, and the 361119
fire marshal shall impose no further assessments unless the fund 361120
balance is reduced to five thousand dollars or less. If the fund 361121
balance is reduced to five thousand dollars or less, the fire 361122
marshal shall impose an additional assessment upon each licensed 361123
fireworks manufacturer and wholesaler in order to increase the 361124
fund balance to fifteen thousand dollars. The fire marshal shall 361125
determine the amount of the initial assessment on each 361126
manufacturer or wholesaler and each additional assessment by 361127
dividing the total amount needed to be paid into the fund by the 361128
total number of fireworks manufacturers and wholesalers licensed 361129
under this chapter. If a licensed fireworks manufacturer or 361130
wholesaler fails to pay an assessment required by this division 361131
within thirty days after receiving notice of the assessment, the 361132
fire marshal, in accordance with Chapter 119. of the Revised Code, 361133
may refuse to issue, or may revoke, the appropriate license. 361134~~

The fire marshal shall in the fire marshal's discretion use 361135
amounts in the state fire marshal's fund for fireworks training 361136
and education purposes, including, but not limited to, the 361137
creation of educational and training programs, attendance by the 361138
fire marshal and the fire marshal's employees at conferences and 361139

seminars, the payment of travel and meal expenses associated with 36140
such attendance, participation by the fire marshal and the fire 36141
marshal's employees in committee meetings and other meetings 36142
related to pyrotechnic codes, and the payment of travel and meal 36143
expenses associated with such participation. The use of the fund 36144
shall comply with rules of the department of commerce, policies 36145
and procedures established by the director of budget and 36146
management, and all other applicable laws. 36147

Sec. 3743.59. (A) Upon application by an affected party, the 36148
fire marshal may grant variances from the requirements of this 36149
chapter or from the requirements of rules adopted pursuant to this 36150
chapter if the fire marshal determines that a literal enforcement 36151
of the requirement will result in ~~unnecessary hardship~~ practical 36152
difficulty in complying with the requirements of this chapter or 36153
the rules adopted pursuant to this chapter and that the variance 36154
will not be contrary to the public health, safety, or welfare. A 36155
variance shall not be granted to a person who is initially 36156
licensed as a manufacturer or wholesaler of fireworks after June 36157
14, 1988. 36158

(B) The fire marshal may authorize a variance from the 36159
prohibitions in this chapter against the possession and use of 36160
pyrotechnic compounds to a person who submits proof that the 36161
person is certified and in good standing with the Ohio state board 36162
of education, provided that the pyrotechnic compounds are used for 36163
educational purposes only, or are used only at an authorized 36164
educational function approved by the governing board that 36165
exercises authority over the educational function. 36166

(C) The fire marshal may authorize a variance from the 36167
prohibitions in this chapter against the possession and use of 36168
pyrotechnic compounds to a person who possesses and uses the 36169
pyrotechnic compounds for personal and noncommercial purposes as a 36170

hobby. The fire marshal may rescind a variance authorized under 36171
this division at any time, exclusively at the fire marshal's 36172
discretion. 36173

Sec. 3743.65. (A) No person shall possess fireworks in this 36174
state or shall possess for sale or sell fireworks in this state, 36175
except a licensed manufacturer of fireworks as authorized by 36176
sections 3743.02 to 3743.08 of the Revised Code, a licensed 36177
wholesaler of fireworks as authorized by sections 3743.15 to 36178
3743.21 of the Revised Code, a shipping permit holder as 36179
authorized by section 3743.40 of the Revised Code, an out-of-state 36180
resident as authorized by section 3743.44 of the Revised Code, a 36181
resident of this state as authorized by section 3743.45 of the 36182
Revised Code, or a licensed exhibitor of fireworks as authorized 36183
by sections 3743.50 to 3743.55 of the Revised Code, and except as 36184
provided in section 3743.80 of the Revised Code. 36185

(B) Except as provided in section 3743.80 of the Revised Code 36186
and except for licensed exhibitors of fireworks authorized to 36187
conduct a fireworks exhibition pursuant to sections 3743.50 to 36188
3743.55 of the Revised Code, no person shall discharge, ignite, or 36189
explode any fireworks in this state. 36190

(C) No person shall use in a theater or public hall, what is 36191
technically known as fireworks showers, or a mixture containing 36192
potassium chlorate and sulphur. 36193

(D) No person shall sell fireworks of any kind to a person 36194
under eighteen years of age. 36195

(E) No person shall advertise 1.4G fireworks for sale. A sign 36196
located on a seller's premises identifying the seller as a seller 36197
of fireworks is not the advertising of fireworks for sale. 36198

(F) No person, other than a licensed manufacturer, licensed 36199
wholesaler, licensed exhibitor, or shipping permit holder, shall 36200

possess 1.3G fireworks in this state. 36201

(G) Except as otherwise provided in division ~~(K)~~(J) of 36202
section 3743.06 and division ~~(L)~~(K) of section 3743.19 of the 36203
Revised Code, no person shall knowingly disable a fire suppression 36204
system as defined in section 3781.108 of the Revised Code on the 36205
premises of a fireworks plant of a licensed manufacturer of 36206
fireworks or on the premises of the business operations of a 36207
licensed wholesaler of fireworks. 36208

Sec. 3743.75. (A) During the period beginning on June 29, 36209
2001, and ending on December 15, 2008, the state fire marshal 36210
shall not do any of the following: 36211

(1) Issue a license as a manufacturer of fireworks under 36212
sections 3743.02 and 3743.03 of the Revised Code to a person for a 36213
particular fireworks plant unless that person possessed such a 36214
license for that fireworks plant immediately prior to June 29, 36215
2001; 36216

(2) Issue a license as a wholesaler of fireworks under 36217
sections 3743.15 and 3743.16 of the Revised Code to a person for a 36218
particular location unless that person possessed such a license 36219
for that location immediately prior to June 29, 2001; 36220

(3) Except as provided in division (B) of this section, 36221
approve the geographic transfer of a license as a manufacturer or 36222
wholesaler of fireworks issued under this chapter to any location 36223
other than a location for which a license was issued under this 36224
chapter immediately prior to June 29, 2001. 36225

(B) Division (A)(3) of this section does not apply to a 36226
transfer that the state fire marshal approves under division 36227
~~(D)~~~~(2)~~(F) of section 3743.17 of the Revised Code. ~~Section~~ 36228

(C) Notwithstanding section 3743.59 of the Revised Code does 36229
not apply to this section, the prohibited activities established 36230

in divisions (A)(1) and (2) of this section, geographic transfers 36231
approved pursuant to division (F) of section 3743.17 of the 36232
Revised Code, and storage locations allowed pursuant to division 36233
(I) of section 3743.04 of the Revised Code or division (G) of 36234
section 3743.17 of the Revised Code are not subject to any 36235
variance, waiver, or exclusion. 36236

(D) As used in division (A) of this section: 36237

(1) "Person" includes any person or entity, in whatever form 36238
or name, that acquires possession of a manufacturer or wholesaler 36239
of fireworks license issued pursuant to this chapter by transfer 36240
of possession of a license, whether that transfer occurs by 36241
purchase, assignment, inheritance, bequest, stock transfer, or any 36242
other type of transfer, on the condition that the transfer is in 36243
accordance with division (D) of section 3743.04 of the Revised 36244
Code or division (D) of section 3743.17 of the Revised Code and is 36245
approved by the fire marshal. 36246

(2) "Particular location" includes a licensed premises and, 36247
regardless of when approved, any storage location approved in 36248
accordance with section 3743.04 or 3743.17 of the Revised Code. 36249

Sec. 3745.015. There is hereby created in the state treasury 36250
the environmental protection fund consisting of money credited to 36251
the fund under division (A)(3) of section 3734.57 of the Revised 36252
Code. The environmental protection agency shall use money in the 36253
fund to pay the agency's costs associated with administering and 36254
enforcing, or otherwise conducting activities under, this chapter 36255
and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 36256
3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 36257
6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of 36258
the Revised Code. 36259

Sec. 3745.11. (A) Applicants for and holders of permits, 36260

licenses, variances, plan approvals, and certifications issued by 36261
the director of environmental protection pursuant to Chapters 36262
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 36263
to the environmental protection agency for each such issuance and 36264
each application for an issuance as provided by this section. No 36265
fee shall be charged for any issuance for which no application has 36266
been submitted to the director. 36267

(B) Each person who is issued a permit to install prior to 36268
July 1, 2003, pursuant to rules adopted under division (F) of 36269
section 3704.03 of the Revised Code shall pay the fees specified 36270
in the following schedules: 36271

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers) 36272
Input capacity (maximum) 36273
(million British thermal units per hour) Permit to install 36274
Greater than 0, but less than 10 \$ 200 36275
10 or more, but less than 100 400 36276
100 or more, but less than 300 800 36277
300 or more, but less than 500 1500 36278
500 or more, but less than 1000 2500 36279
1000 or more, but less than 5000 4000 36280
5000 or more 6000 36281

Units burning exclusively natural gas, number two fuel oil, 36282
or both shall be assessed a fee that is one-half of the applicable 36283
amount established in division (F)(1) of this section. 36284

(2) Incinerators 36285
Input capacity (pounds per hour) Permit to install 36286
0 to 100 \$ 100 36287
101 to 500 400 36288
501 to 2000 750 36289
2001 to 20,000 1000 36290
more than 20,000 2500 36291

<u>(3)(a)</u> Process		36292
Process weight rate (pounds per hour)	Permit to install	36293
0 to 1000	\$ 200	36294
1001 to 5000	400	36295
5001 to 10,000	600	36296
10,001 to 50,000	800	36297
more than 50,000	1000	36298

In any process where process weight rate cannot be 36299
ascertained, the minimum fee shall be assessed. 36300

(b) Notwithstanding division (B)(3)(a) of this section, any 36301
person issued a permit to install pursuant to rules adopted under 36302
division (F) of section 3704.03 of the Revised Code shall pay the 36303
fees established in division (B)(3)(c) of this section for a 36304
process used in any of the following industries, as identified by 36305
the applicable four-digit standard industrial classification code 36306
according to the Standard Industrial Classification Manual 36307
published by the United States office of management and budget in 36308
the executive office of the president, 1972, as revised: 36309

- 1211 Bituminous coal and lignite mining; 36310
- 1213 Bituminous coal and lignite mining services; 36311
- 1411 Dimension stone; 36312
- 1422 Crushed and broken limestone; 36313
- 1427 Crushed and broken stone, not elsewhere classified; 36314
- 1442 Construction sand and gravel; 36315
- 1446 Industrial sand; 36316
- 3281 Cut stone and stone products; 36317
- 3295 Minerals and earth, ground or otherwise treated. 36318

(c) The fees established in the following schedule apply to 36319
the issuance of a permit to install pursuant to rules adopted 36320

under division (F) of section 3704.03 of the Revised Code for a		36321
process listed in division (B)(3)(b) of this section:		36322
Process weight rate (pounds per hour)	Permit to install	36323
0 to 1000	\$ 200	36324
10,001 to 50,000	300	36325
50,001 to 100,000	400	36326
100,001 to 200,000	500	36327
200,001 to 400,000	600	36328
400,001 or more	700	36329
(4) Storage tanks		36330
Gallons (maximum useful capacity)	Permit to install	36331
0 to 20,000	\$ 100	36332
20,001 to 40,000	150	36333
40,001 to 100,000	200	36334
100,001 to 250,000	250	36335
250,001 to 500,000	350	36336
500,001 to 1,000,000	500	36337
1,000,001 or greater	750	36338
(5) Gasoline/fuel dispensing facilities		36339
For each gasoline/fuel dispensing	Permit to install	36340
facility	\$ 100	36341
(6) Dry cleaning facilities		36342
For each dry cleaning facility	Permit to install	36343
(includes all units at the facility)	\$ 100	36344
(7) Registration status		36345
For each source covered	Permit to install	36346
by registration status	\$ 75	36347
(C)(1) Except as otherwise provided in division (C)(2) of		36348
this section, beginning July 1, 1994, each person who owns or		36349
operates an air contaminant source and who is required to apply		36350
for and obtain a Title V permit under section 3704.036 of the		36351

Revised Code shall pay the fees set forth in division (C)(1) of
this section. For the purposes of that division, total emissions
of air contaminants may be calculated using engineering
calculations, emissions factors, material balance calculations, or
performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual
emissions from a source in tons per year of the regulated
pollutants particulate matter, sulfur dioxide, nitrogen oxides,
organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of
each such regulated pollutant during the period July through
December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of
each such regulated pollutant during calendar year 1994, to be
collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions
of each such regulated pollutant in calendar year 1995, and each
subsequent calendar year, to be collected no sooner than the
fifteenth day of April of the year next succeeding the calendar
year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not
apply to that portion of the emissions of a regulated pollutant at
a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section
are for the purpose of providing funding for the Title V permit
program.

(3) The fees assessed under division (C)(1) of this section
do not apply to emissions from any electric generating unit
designated as a Phase I unit under Title IV of the federal Clean
Air Act prior to calendar year 2000. Those fees shall be assessed

on the emissions from such a generating unit commencing in 36382
calendar year 2001 based upon the total actual emissions from the 36383
generating unit during calendar year 2000 and shall continue to be 36384
assessed each subsequent calendar year based on the total actual 36385
emissions from the generating unit during the preceding calendar 36386
year. 36387

(4) The director shall issue invoices to owners or operators 36388
of air contaminant sources who are required to pay a fee assessed 36389
under division (C) or (D) of this section. Any such invoice shall 36390
be issued no sooner than the applicable date when the fee first 36391
may be collected in a year under the applicable division, shall 36392
identify the nature and amount of the fee assessed, and shall 36393
indicate that the fee is required to be paid within thirty days 36394
after the issuance of the invoice. 36395

(D)(1) Except as provided in division (D)(3) of this section, 36396
from January 1, 1994, through December 31, 2003, each person who 36397
owns or operates an air contaminant source; who is required to 36398
apply for a permit to operate pursuant to rules adopted under 36399
division (G), or a variance pursuant to division (H), of section 36400
3704.03 of the Revised Code; and who is not required to apply for 36401
and obtain a Title V permit under section 3704.036 of the Revised 36402
Code shall pay a single fee based upon the sum of the actual 36403
annual emissions from the facility of the regulated pollutants 36404
particulate matter, sulfur dioxide, nitrogen oxides, organic 36405
compounds, and lead in accordance with the following schedule: 36406

Total tons per year of regulated pollutants emitted	Annual fee per facility	36407 36408 36409
More than 0, but less than 50	\$ 75	36410
50 or more, but less than 100	300	36411
100 or more	700	36412

(2) Except as provided in division (D)(3) of this section, 36413

beginning January 1, 2004, each person who owns or operates an air
contaminant source; who is required to apply for a permit to
operate pursuant to rules adopted under division (G), or a
variance pursuant to division (H), of section 3704.03 of the
Revised Code; and who is not required to apply for and obtain a
Title V permit under section 3704.03 of the Revised Code shall pay
a single fee based upon the sum of the actual annual emissions
from the facility of the regulated pollutants particulate matter,
sulfur dioxide, nitrogen oxides, organic compounds, and lead in
accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(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	Annual fee

pollutants emitted	per facility	
Less than 10	\$ 170	36447
10 or more, but less than 20	340	36448
20 or more, but less than 30	670	36449
30 or more, but less than 40	1,010	36450
40 or more, but less than 50	1,340	36451
50 or more, but less than 60	1,680	36452
60 or more, but less than 70	2,010	36453
70 or more, but less than 80	2,350	36454
80 or more, but less than 90	2,680	36455
90 or more, but less than 100	3,020	36456
100 or more	3,350	36457

(4) The fees assessed under division (D)(1) of this section 36458
shall be collected annually no sooner than the fifteenth day of 36459
April, commencing in 1995. The fees assessed under division (D)(2) 36460
of this section shall be collected annually no sooner than the 36461
fifteenth day of April, commencing in 2005. The fees assessed 36462
under division (D)(3) of this section shall be collected no sooner 36463
than the fifteenth day of April, commencing in 2000. The fees 36464
assessed under division (D) of this section in a calendar year 36465
shall be based upon the sum of the actual emissions of those 36466
regulated pollutants during the preceding calendar year. For the 36467
purpose of division (D) of this section, emissions of air 36468
contaminants may be calculated using engineering calculations, 36469
emission factors, material balance calculations, or performance 36470
testing procedures, as authorized by the director. The director, 36471
by rule, may require persons who are required to pay the fees 36472
assessed under division (D) of this section to pay those fees 36473
biennially rather than annually. 36474

(E)(1) Consistent with the need to cover the reasonable costs 36475
of the Title V permit program, the director annually shall 36476
increase the fees prescribed in division (C)(1) of this section by 36477

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	36509
5000 or more	9000	36510

Units burning exclusively natural gas, number two fuel oil,
or both shall be assessed a fee that is one-half the applicable
amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion
engines designed to generate electricity

Generating capacity (mega watts)	Permit to install	
0 or more, but less than 10	\$ 25	36517
10 or more, but less than 25	150	36518
25 or more, but less than 50	300	36519
50 or more, but less than 100	500	36520
100 or more, but less than 250	1000	36521
250 or more	2000	36522

(3) Incinerators 36523

Input capacity (pounds per hour)	Permit to install	
0 to 100	\$ 100	36525
101 to 500	500	36526
501 to 2000	1000	36527
2001 to 20,000	1500	36528
more than 20,000	3750	36529

(4)(a) Process 36530

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	36532
1001 to 5000	500	36533
5001 to 10,000	750	36534
10,001 to 50,000	1000	36535
more than 50,000	1250	36536

In any process where process weight rate cannot be
ascertained, the minimum fee shall be assessed. A boiler, furnace,
combustion turbine, stationary internal combustion engine, or

process heater designed to provide direct heat or power to a 36540
process not designed to generate electricity shall be assessed a 36541
fee established in division (F)(4)(a) of this section. A 36542
combustion turbine or stationary internal combustion engine 36543
designed to generate electricity shall be assessed a fee 36544
established in division (F)(2) of this section. 36545

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, 36546
any person issued a permit to install pursuant to rules adopted 36547
under division (F) of section 3704.03 of the Revised Code shall 36548
pay the fees set forth in division (F)~~(3)~~(4)(c) of this section 36549
for a process used in any of the following industries, as 36550
identified by the applicable two-digit, three-digit, or four-digit 36551
standard industrial classification code according to the Standard 36552
Industrial Classification Manual published by the United States 36553
office of management and budget in the executive office of the 36554
president, ~~1972~~ 1987, as revised: 36555

~~1211 Bituminous coal and lignite mining;~~ 36556

~~1213 Bituminous coal and lignite mining services;~~ 36557

~~1411 Dimension stone;~~ 36558

~~1422 Crushed and broken limestone;~~ 36559

~~1427 Crushed and broken stone, not elsewhere classified;~~ 36560

~~1442 Construction sand and gravel;~~ 36561

~~1446 Industrial sand;~~ Major group 10, metal mining; 36562

Major group 12, coal mining; 36563

Major group 14, mining and quarrying of nonmetallic minerals; 36564

Industry group 204, grain mill products; 36565

2873 Nitrogen fertilizers; 36566

2874 Phosphatic fertilizers; 36567

3281 Cut stone and stone products;		36568
3295 Minerals and earth, ground or otherwise treated;		36569
<u>4221 Grain elevators (storage only);</u>		36570
<u>5159 Farm related raw materials;</u>		36571
<u>5261 Retail nurseries and lawn and garden supply stores.</u>		36572
(c) The fees set forth in the following schedule apply to the		36573
issuance of a permit to install pursuant to rules adopted under		36574
division (F) of section 3704.03 of the Revised Code for a process		36575
identified in division (F) (3) (4)(b) of this section:		36576
Process weight rate (pounds per	Permit to install	36577
hour)		
0 to 10,000	\$ 200	36578
10,001 to 50,000	400	36579
50,001 to 100,000	500	36580
100,001 to 200,000	600	36581
200,001 to 400,000	750	36582
400,001 or more	900	36583
(5) Storage tanks		36584
Gallons (maximum useful capacity)	Permit to install	36585
0 to 20,000	\$ 100	36586
20,001 to 40,000	150	36587
40,001 to 100,000	250	36588
100,001 to 500,000	400	36589
500,001 or greater	750	36590
(6) Gasoline/fuel dispensing facilities		36591
For each gasoline/fuel		36592
dispensing facility (includes all	Permit to install	36593
units at the facility)	\$ 100	36594
(7) Dry cleaning facilities		36595
For each dry cleaning		36596

facility (includes all units	Permit to install	36597
at the facility)	\$ 100	36598
(8) Registration status		36599
For each source covered	Permit to install	36600
by registration status	\$ 75	36601
(G) An owner or operator who is responsible for an asbestos		36602
demolition or renovation project pursuant to rules adopted under		36603
section 3704.03 of the Revised Code shall pay the fees set forth		36604
in the following schedule:		36605
Action	Fee	36606
Each notification	\$75	36607
Asbestos removal	\$3/unit	36608
Asbestos cleanup	\$4/cubic yard	36609
For purposes of this division, "unit" means any combination of		36610
linear feet or square feet equal to fifty.		36611
(H) A person who is issued an extension of time for a permit		36612
to install an air contaminant source pursuant to rules adopted		36613
under division (F) of section 3704.03 of the Revised Code shall		36614
pay a fee equal to one-half the fee originally assessed for the		36615
permit to install under this section, except that the fee for such		36616
an extension shall not exceed two hundred dollars.		36617
(I) A person who is issued a modification to a permit to		36618
install an air contaminant source pursuant to rules adopted under		36619
section 3704.03 of the Revised Code shall pay a fee equal to		36620
one-half of the fee that would be assessed under this section to		36621
obtain a permit to install the source. The fee assessed by this		36622
division only applies to modifications that are initiated by the		36623
owner or operator of the source and shall not exceed two thousand		36624
dollars.		36625
(J) Notwithstanding division (B) or (F) of this section, a		36626
person who applies for or obtains a permit to install pursuant to		36627

rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b)

or (c) of this section, a person issued a water discharge permit 36660
or renewal of a water discharge permit pursuant to Chapter 6111. 36661
of the Revised Code shall pay a fee based on each point source to 36662
which the issuance is applicable in accordance with the following 36663
schedule: 36664

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	36665
1,001 to 5000	100	36666
5,001 to 50,000	200	36667
50,001 to 100,000	300	36668
100,001 to 300,000	525	36669
over 300,000	750	36670

(b) Notwithstanding the fee schedule specified in division 36672
(L)(1)(a) of this section, the fee for a water discharge permit 36673
that is applicable to coal mining operations regulated under 36674
Chapter 1513. of the Revised Code shall be two hundred fifty 36675
dollars per mine. 36676

(c) Notwithstanding the fee schedule specified in division 36677
(L)(1)(a) of this section, the fee for a water discharge permit 36678
for a public discharger identified by I in the third character of 36679
the permittee's NPDES permit number shall not exceed seven hundred 36680
fifty dollars. 36681

(2) A person applying for a plan approval for a wastewater 36682
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 36683
of the Revised Code shall pay a fee of one hundred dollars plus 36684
sixty-five one-hundredths of one per cent of the estimated project 36685
cost through June 30, ~~2006~~ 2008, and one hundred dollars plus 36686
two-tenths of one per cent of the estimated project cost on and 36687
after July 1, ~~2006~~ 2008, except that the total fee shall not 36688
exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and 36689
five thousand dollars on and after July 1, ~~2006~~ 2008. The fee 36690
shall be paid at the time the application is submitted. 36691

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October

of the billing year, of the circumstances causing the cessation of discharge. 36724
36725

(iii) The annual discharge fee established in division 36726
(L)(5)(a)(i) of this section, except for the surcharge applicable 36727
to certain industrial facilities pursuant to division (L)(5)(c) of 36728
this section, shall be based upon the average daily discharge flow 36729
in gallons per day calculated using first day of May through 36730
thirty-first day of October flow data for the period two years 36731
prior to the date on which the fee is due. In the case of NPDES 36732
discharge permits for new sources, the fee shall be calculated 36733
using the average daily design flow of the facility until actual 36734
average daily discharge flow values are available for the time 36735
period specified in division (L)(5)(a)(iii) of this section. The 36736
annual discharge fee may be prorated for a new source as described 36737
in division (L)(5)(a)(ii) of this section. 36738

(b) An NPDES permit holder that is a public discharger shall 36739
pay the fee specified in the following schedule: 36740

Average daily discharge flow	Fee due by	
	January 30,	36742
	2004 <u>2006</u> , and	36743
	January 30, 2005	36744
	<u>2007</u>	
5,000 to 49,999	\$ 200	36745
50,000 to 100,000	500	36746
100,001 to 250,000	1,050	36747
250,001 to 1,000,000	2,600	36748
1,000,001 to 5,000,000	5,200	36749
5,000,001 to 10,000,000	10,350	36750
10,000,001 to 20,000,000	15,550	36751
20,000,001 to 50,000,000	25,900	36752
50,000,001 to 100,000,000	41,400	36753
100,000,001 or more	62,100	36754

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2004 <u>2006</u> , and January 30, 2005 <u>2007</u>	
5,000 to 49,999	\$ 250	36771
50,000 to 250,000	1,200	36772
250,001 to 1,000,000	2,950	36773
1,000,001 to 5,000,000	5,850	36774
5,000,001 to 10,000,000	8,800	36775
10,000,001 to 20,000,000	11,700	36776
20,000,001 to 100,000,000	14,050	36777
100,000,001 to 250,000,000	16,400	36778
250,000,001 or more	18,700	36779

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2004~~ 2006, and not

later than January 30, ~~2005~~ 2007. Any person who fails to pay the 36786
surcharge at that time shall pay an additional amount that equals 36787
ten per cent of the amount of the surcharge. 36788

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 36789
section, a public discharger identified by I in the third 36790
character of the permittee's NPDES permit number and an industrial 36791
discharger identified by I, J, L, V, W, X, Y, or Z in the third 36792
character of the permittee's NPDES permit number shall pay a 36793
nonrefundable annual discharge fee of one hundred eighty dollars 36794
not later than January 30, ~~2004~~ 2006, and not later than January 36795
30, ~~2005~~ 2007. Any person who fails to pay the fee at that time 36796
shall pay an additional amount that equals ten per cent of the 36797
required fee. 36798

(6) Each person obtaining a national pollutant discharge 36799
elimination system general or individual permit for municipal 36800
storm water discharge shall pay a nonrefundable storm water 36801
discharge fee of one hundred dollars per square mile of area 36802
permitted. The fee shall not exceed ten thousand dollars and shall 36803
be payable on or before January 30, 2004, and the thirtieth day of 36804
January of each year thereafter. Any person who fails to pay the 36805
fee on the date specified in division (L)(6) of this section shall 36806
pay an additional amount per year equal to ten per cent of the 36807
annual fee that is unpaid. 36808

(7) The director shall transmit all moneys collected under 36809
division (L) of this section to the treasurer of state for deposit 36810
into the state treasury to the credit of the surface water 36811
protection fund created in section 6111.038 of the Revised Code. 36812

(8) As used in division (L) of this section: 36813

(a) "NPDES" means the federally approved national pollutant 36814
discharge elimination system program for issuing, modifying, 36815
revoking, reissuing, terminating, monitoring, and enforcing 36816

permits and imposing and enforcing pretreatment requirements under 36817
Chapter 6111. of the Revised Code and rules adopted under it. 36818

(b) "Public discharger" means any holder of an NPDES permit 36819
identified by P in the second character of the NPDES permit number 36820
assigned by the director. 36821

(c) "Industrial discharger" means any holder of an NPDES 36822
permit identified by I in the second character of the NPDES permit 36823
number assigned by the director. 36824

(d) "Major discharger" means any holder of an NPDES permit 36825
classified as major by the regional administrator of the United 36826
States environmental protection agency in conjunction with the 36827
director. 36828

(M) Through June 30, ~~2006~~ 2008, a person applying for a 36829
license or license renewal to operate a public water system under 36830
section 6109.21 of the Revised Code shall pay the appropriate fee 36831
established under this division at the time of application to the 36832
director. Any person who fails to pay the fee at that time shall 36833
pay an additional amount that equals ten per cent of the required 36834
fee. The director shall transmit all moneys collected under this 36835
division to the treasurer of state for deposit into the drinking 36836
water protection fund created in section 6109.30 of the Revised 36837
Code. 36838

Except as provided in division (M)(4) of this section, fees 36839
required under this division shall be calculated and paid in 36840
accordance with the following schedule: 36841

(1) For the initial license required under division (A)(1) of 36842
section 6109.21 of the Revised Code for any public water system 36843
that is a community water system as defined in section 6109.01 of 36844
the Revised Code, and for each license renewal required for such a 36845
system prior to January 31, ~~2006~~ 2008, the fee is: 36846

Number of service connections	Fee amount
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 36847

Not more than 49	\$ 112	36848
50 to 99	176	36849
Number of service connections	Average cost per connection	36850
100 to 2,499	\$ 1.92	36851
2,500 to 4,999	1.48	36852
5,000 to 7,499	1.42	36853
7,500 to 9,999	1.34	36854
10,000 to 14,999	1.16	36855
15,000 to 24,999	1.10	36856
25,000 to 49,999	1.04	36857
50,000 to 99,999	.92	36858
100,000 to 149,999	.86	36859
150,000 to 199,999	.80	36860
200,000 or more	.76	36861

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	36875
Fewer than 150	\$ 112	36876
150 to 299	176	36877
300 to 749	384	36878
750 to 1,499	628	36879

1,500 to 2,999	1,268	36880
3,000 to 7,499	2,816	36881
7,500 to 14,999	5,510	36882
15,000 to 22,499	9,048	36883
22,500 to 29,999	12,430	36884
30,000 or more	16,820	36885

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	36898
2	112	36899
3	176	36900
4	278	36901
5	568	36902
System designated as using a surface water source	792	36903 36904

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			36935
MMO-MUG	\$2,000		36936
MF	2,100		36937
MMO-MUG and MF	2,550		36938
organic chemical	5,400		36939
trace metals	5,400		36940
standard chemistry	2,800		36941
limited chemistry	1,550		36942

On and after July 1, ~~2006~~ 2008, the following fee, on a per

survey basis, shall be charged any such person:		36944
microbiological	\$ 1,650	36945
organic chemicals	3,500	36946
trace metals	3,500	36947
standard chemistry	1,800	36948
limited chemistry	1,000	36949

The fee for those services shall be paid at the time the request 36950
for the survey is made. Through June 30, ~~2006~~ 2008, an individual 36951
laboratory shall not be assessed a fee under this division more 36952
than once in any three-year period unless the person requests the 36953
addition of analytical methods or analysts, in which case the 36954
person shall pay eighteen hundred dollars for each additional 36955
survey requested. 36956

As used in division (N)(3) of this section: 36957

(a) "MF" means microfiltration. 36958

(b) "MMO" means minimal medium ONPG. 36959

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 36960

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 36961

The director shall transmit all moneys collected under this 36962
division to the treasurer of state for deposit into the drinking 36963
water protection fund created in section 6109.30 of the Revised 36964
Code. 36965

~~(O) Any person applying to the director for examination for 36966
certification as an operator of a water supply system or 36967
wastewater system under Chapter 6109. or 6111. of the Revised 36968
Code, at the time the application is submitted, shall pay an 36969
application fee of twenty five dollars through November 30, 2003. 36970
Upon approval from the director that the applicant is eligible to 36971
take the examination therefor, the applicant shall pay a fee in 36972
accordance with the following schedule through November 30, 2003. 36973~~

Class I operator	\$45	36974
Class II operator	55	36975
Class III operator	65	36976
Class IV operator	75	36977

~~On and after December 1, 2003,~~ any person applying to the 36978
director for examination for certification as an operator of a 36979
water supply system or wastewater system under Chapter 6109. or 36980
6111. of the Revised Code, at the time the application is 36981
submitted, shall pay an application fee of forty-five dollars 36982
through November 30, ~~2006~~ 2008, and twenty-five dollars on and 36983
after December 1, ~~2006~~ 2008. Upon approval from the director that 36984
the applicant is eligible to take the examination therefor, the 36985
applicant shall pay a fee in accordance with the following 36986
schedule through November 30, ~~2006~~ 2008: 36987

Class A operator	\$35	36988
Class I operator	60	36989
Class II operator	75	36990
Class III operator	85	36991
Class IV operator	100	36992

On and after December 1, ~~2006~~ 2008, the applicant shall pay a 36993
fee in accordance with the following schedule: 36994

Class A operator	\$25	36995
Class I operator	\$45	36996
Class II operator	55	36997
Class III operator	65	36998
Class IV operator	75	36999

A person shall pay a biennial certification renewal fee for 37000
each applicable class of certification in accordance with the 37001
following schedule: 37002

Class A operator	\$25	37003
Class I operator	35	37004
Class II operator	45	37005

Class III operator	55	37006
Class IV operator	65	37007

If a certification renewal fee is received by the director 37008
more than thirty days, but not more than one year after the 37009
expiration date of the certification, the person shall pay a 37010
certification renewal fee in accordance with the following 37011
schedule: 37012

Class A operator	\$45	37013
Class I operator	55	37014
Class II operator	65	37015
Class III operator	75	37016
Class IV operator	85	37017

A person who requests a replacement certificate shall pay a 37018
fee of twenty-five dollars at the time the request is made. 37019

The director shall transmit all moneys collected under this 37020
division to the treasurer of state for deposit into the drinking 37021
water protection fund created in section 6109.30 of the Revised 37022
Code. 37023

(P) Any person submitting an application for an industrial 37024
water pollution control certificate under section 6111.31 of the 37025
Revised Code, as that section existed before its repeal by H.B. 95 37026
of the 125th general assembly, shall pay a nonrefundable fee of 37027
five hundred dollars at the time the application is submitted. The 37028
director shall transmit all moneys collected under this division 37029
to the treasurer of state for deposit into the surface water 37030
protection fund created in section 6111.038 of the Revised Code. A 37031
person paying a certificate fee under this division shall not pay 37032
an application fee under division (S)(1) of this section. On and 37033
after ~~the effective date of this amendment~~ June 26, 2003, persons 37034
shall file such applications and pay the fee as required under 37035
sections 5709.20 to 5709.27 of the Revised Code, and proceeds from 37036
the fee shall be credited as provided in section 5709.212 of the 37037

Revised Code. 37038

(Q) Except as otherwise provided in division (R) of this 37039
section, a person issued a permit by the director for a new solid 37040
waste disposal facility other than an incineration or composting 37041
facility, a new infectious waste treatment facility other than an 37042
incineration facility, or a modification of such an existing 37043
facility that includes an increase in the total disposal or 37044
treatment capacity of the facility pursuant to Chapter 3734. of 37045
the Revised Code shall pay a fee of ten dollars per thousand cubic 37046
yards of disposal or treatment capacity, or one thousand dollars, 37047
whichever is greater, except that the total fee for any such 37048
permit shall not exceed eighty thousand dollars. A person issued a 37049
modification of a permit for a solid waste disposal facility or an 37050
infectious waste treatment facility that does not involve an 37051
increase in the total disposal or treatment capacity of the 37052
facility shall pay a fee of one thousand dollars. A person issued 37053
a permit to install a new, or modify an existing, solid waste 37054
transfer facility under that chapter shall pay a fee of two 37055
thousand five hundred dollars. A person issued a permit to install 37056
a new or to modify an existing solid waste incineration or 37057
composting facility, or an existing infectious waste treatment 37058
facility using incineration as its principal method of treatment, 37059
under that chapter shall pay a fee of one thousand dollars. The 37060
increases in the permit fees under this division resulting from 37061
the amendments made by Amended Substitute House Bill 592 of the 37062
117th general assembly do not apply to any person who submitted an 37063
application for a permit to install a new, or modify an existing, 37064
solid waste disposal facility under that chapter prior to 37065
September 1, 1987; any such person shall pay the permit fee 37066
established in this division as it existed prior to June 24, 1988. 37067
In addition to the applicable permit fee under this division, a 37068
person issued a permit to install or modify a solid waste facility 37069
or an infectious waste treatment facility under that chapter who 37070

fails to pay the permit fee to the director in compliance with 37071
division (V) of this section shall pay an additional ten per cent 37072
of the amount of the fee for each week that the permit fee is 37073
late. 37074

Permit and late payment fees paid to the director under this 37075
division shall be credited to the general revenue fund. 37076

(R)(1) A person issued a registration certificate for a scrap 37077
tire collection facility under section 3734.75 of the Revised Code 37078
shall pay a fee of two hundred dollars, except that if the 37079
facility is owned or operated by a motor vehicle salvage dealer 37080
licensed under Chapter 4738. of the Revised Code, the person shall 37081
pay a fee of twenty-five dollars. 37082

(2) A person issued a registration certificate for a new 37083
scrap tire storage facility under section 3734.76 of the Revised 37084
Code shall pay a fee of three hundred dollars, except that if the 37085
facility is owned or operated by a motor vehicle salvage dealer 37086
licensed under Chapter 4738. of the Revised Code, the person shall 37087
pay a fee of twenty-five dollars. 37088

(3) A person issued a permit for a scrap tire storage 37089
facility under section 3734.76 of the Revised Code shall pay a fee 37090
of one thousand dollars, except that if the facility is owned or 37091
operated by a motor vehicle salvage dealer licensed under Chapter 37092
4738. of the Revised Code, the person shall pay a fee of fifty 37093
dollars. 37094

(4) A person issued a permit for a scrap tire monocell or 37095
monofill facility under section 3734.77 of the Revised Code shall 37096
pay a fee of ten dollars per thousand cubic yards of disposal 37097
capacity or one thousand dollars, whichever is greater, except 37098
that the total fee for any such permit shall not exceed eighty 37099
thousand dollars. 37100

(5) A person issued a registration certificate for a scrap 37101

tire recovery facility under section 3734.78 of the Revised Code 37102
shall pay a fee of one hundred dollars. 37103

(6) A person issued a permit for a scrap tire recovery 37104
facility under section 3734.78 of the Revised Code shall pay a fee 37105
of one thousand dollars. 37106

(7) In addition to the applicable registration certificate or 37107
permit fee under divisions (R)(1) to (6) of this section, a person 37108
issued a registration certificate or permit for any such scrap 37109
tire facility who fails to pay the registration certificate or 37110
permit fee to the director in compliance with division (V) of this 37111
section shall pay an additional ten per cent of the amount of the 37112
fee for each week that the fee is late. 37113

(8) The registration certificate, permit, and late payment 37114
fees paid to the director under divisions (R)(1) to (7) of this 37115
section shall be credited to the scrap tire management fund 37116
created in section 3734.82 of the Revised Code. 37117

(S)(1) Except as provided by divisions (L), (M), (N), (O), 37118
(P), and (S)(2) of this section, division (A)(2) of section 37119
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 37120
and rules adopted under division (T)(1) of this section, any 37121
person applying for a registration certificate under section 37122
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 37123
variance, or plan approval under Chapter 3734. of the Revised Code 37124
shall pay a nonrefundable fee of fifteen dollars at the time the 37125
application is submitted. 37126

Except as otherwise provided, any person applying for a 37127
permit, variance, or plan approval under Chapter 6109. or 6111. of 37128
the Revised Code shall pay a nonrefundable fee of one hundred 37129
dollars at the time the application is submitted through June 30, 37130
~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time 37131
the application is submitted on and after July 1, ~~2006~~ 2008. 37132

Through June 30, ~~2006~~ 2008, any person applying for a national 37133
pollutant discharge elimination system permit under Chapter 6111. 37134
of the Revised Code shall pay a nonrefundable fee of two hundred 37135
dollars at the time of application for the permit. On and after 37136
July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of 37137
fifteen dollars at the time of application. 37138

In addition to the application fee established under division 37139
(S)(1) of this section, any person applying for a national 37140
pollutant discharge elimination system general storm water 37141
construction permit shall pay a nonrefundable fee of twenty 37142
dollars per acre for each acre that is permitted above five acres 37143
at the time the application is submitted. However, the per acreage 37144
fee shall not exceed three hundred dollars. In addition, any 37145
person applying for a national pollutant discharge elimination 37146
system general storm water industrial permit shall pay a 37147
nonrefundable fee of one hundred fifty dollars at the time the 37148
application is submitted. 37149

The director shall transmit all moneys collected under 37150
division (S)(1) of this section pursuant to Chapter 6109. of the 37151
Revised Code to the treasurer of state for deposit into the 37152
drinking water protection fund created in section 6109.30 of the 37153
Revised Code. 37154

The director shall transmit all moneys collected under 37155
division (S)(1) of this section pursuant to Chapter 6111. of the 37156
Revised Code to the treasurer of state for deposit into the 37157
surface water protection fund created in section 6111.038 of the 37158
Revised Code. 37159

If a registration certificate is issued under section 37160
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 37161
the application fee paid shall be deducted from the amount of the 37162
registration certificate fee due under division (R)(1), (2), or 37163
(5) of this section, as applicable. 37164

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 37196
of the Revised Code. 37197

The director shall transmit all moneys collected under rules 37198
adopted under division (T)(1) of this section pursuant to Chapter 37199
6111. of the Revised Code to the treasurer of state for deposit 37200
into the surface water protection fund created in section 6111.038 37201
of the Revised Code. 37202

(2) Exempt the state and political subdivisions thereof, 37203
including education facilities or medical facilities owned by the 37204
state or a political subdivision, or any person exempted from 37205
taxation by section 5709.07 or 5709.12 of the Revised Code, from 37206
any fee required by this section; 37207

(3) Provide for the waiver of any fee, or any part thereof, 37208
otherwise required by this section whenever the director 37209
determines that the imposition of the fee would constitute an 37210
unreasonable cost of doing business for any applicant, class of 37211
applicants, or other person subject to the fee; 37212

(4) Prescribe measures that the director considers necessary 37213
to carry out this section. 37214

(U) When the director reasonably demonstrates that the direct 37215
cost to the state associated with the issuance of a permit to 37216
install, license, variance, plan approval, or certification 37217
exceeds the fee for the issuance or review specified by this 37218
section, the director may condition the issuance or review on the 37219
payment by the person receiving the issuance or review of, in 37220
addition to the fee specified by this section, the amount, or any 37221
portion thereof, in excess of the fee specified under this 37222
section. The director shall not so condition issuances for which 37223
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 37224
section. 37225

(V) Except as provided in divisions (L), (M), and (P) of this 37226

section or unless otherwise prescribed by a rule of the director 37227
adopted pursuant to Chapter 119. of the Revised Code, all fees 37228
required by this section are payable within thirty days after the 37229
issuance of an invoice for the fee by the director or the 37230
effective date of the issuance of the license, permit, variance, 37231
plan approval, or certification. If payment is late, the person 37232
responsible for payment of the fee shall pay an additional ten per 37233
cent of the amount due for each month that it is late. 37234

(W) As used in this section, "fuel-burning equipment," 37235
"fuel-burning equipment input capacity," "incinerator," 37236
"incinerator input capacity," "process," "process weight rate," 37237
"storage tank," "gasoline dispensing facility," "dry cleaning 37238
facility," "design flow discharge," and "new source treatment 37239
works" have the meanings ascribed to those terms by applicable 37240
rules or standards adopted by the director under Chapter 3704. or 37241
6111. of the Revised Code. 37242

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 37243
and (J) of this section, and in any other provision of this 37244
section pertaining to fees paid pursuant to Chapter 3704. of the 37245
Revised Code: 37246

(1) "Facility," "federal Clean Air Act," "person," and "Title 37247
V permit" have the same meanings as in section 3704.01 of the 37248
Revised Code. 37249

(2) "Title V permit program" means the following activities 37250
as necessary to meet the requirements of Title V of the federal 37251
Clean Air Act and 40 C.F.R. part 70, including at least: 37252

(a) Preparing and adopting, if applicable, generally 37253
applicable rules or guidance regarding the permit program or its 37254
implementation or enforcement; 37255

(b) Reviewing and acting on any application for a Title V 37256
permit, permit revision, or permit renewal, including the 37257

development of an applicable requirement as part of the processing	37258
of a permit, permit revision, or permit renewal;	37259
(c) Administering the permit program, including the	37260
supporting and tracking of permit applications, compliance	37261
certification, and related data entry;	37262
(d) Determining which sources are subject to the program and	37263
implementing and enforcing the terms of any Title V permit, not	37264
including any court actions or other formal enforcement actions;	37265
(e) Emission and ambient monitoring;	37266
(f) Modeling, analyses, or demonstrations;	37267
(g) Preparing inventories and tracking emissions;	37268
(h) Providing direct and indirect support to small business	37269
stationary sources to determine and meet their obligations under	37270
the federal Clean Air Act pursuant to the small business	37271
stationary source technical and environmental compliance	37272
assistance program required by section 507 of that act and	37273
established in sections 3704.18, 3704.19, and 3706.19 of the	37274
Revised Code.	37275
(Y)(1) Except as provided in divisions (Y)(2), (3), and (4)	37276
of this section, each sewage sludge facility shall pay a	37277
nonrefundable annual sludge fee equal to three dollars and fifty	37278
cents per dry ton of sewage sludge, including the dry tons of	37279
sewage sludge in materials derived from sewage sludge, that the	37280
sewage sludge facility treats or disposes of in this state. The	37281
annual volume of sewage sludge treated or disposed of by a sewage	37282
sludge facility shall be calculated using the first day of January	37283
through the thirty-first day of December of the calendar year	37284
preceding the date on which payment of the fee is due.	37285
(2)(a) Except as provided in division (Y)(2)(d) of this	37286
section, each sewage sludge facility shall pay a minimum annual	37287

sewage sludge fee of one hundred dollars. 37288

(b) The annual sludge fee required to be paid by a sewage 37289
sludge facility that treats or disposes of exceptional quality 37290
sludge in this state shall be thirty-five per cent less per dry 37291
ton of exceptional quality sludge than the fee assessed under 37292
division (Y)(1) of this section, subject to the following 37293
exceptions: 37294

(i) Except as provided in division (Y)(2)(d) of this section, 37295
a sewage sludge facility that treats or disposes of exceptional 37296
quality sludge shall pay a minimum annual sewage sludge fee of one 37297
hundred dollars. 37298

(ii) A sewage sludge facility that treats or disposes of 37299
exceptional quality sludge shall not be required to pay the annual 37300
sludge fee for treatment or disposal in this state of exceptional 37301
quality sludge generated outside of this state and contained in 37302
bags or other containers not greater than one hundred pounds in 37303
capacity. 37304

A thirty-five per cent reduction for exceptional quality 37305
sludge applies to the maximum annual fees established under 37306
division (Y)(3) of this section. 37307

(c) A sewage sludge facility that transfers sewage sludge to 37308
another sewage sludge facility in this state for further treatment 37309
prior to disposal in this state shall not be required to pay the 37310
annual sludge fee for the tons of sewage sludge that have been 37311
transferred. In such a case, the sewage sludge facility that 37312
disposes of the sewage sludge shall pay the annual sludge fee. 37313
However, the facility transferring the sewage sludge shall pay the 37314
one-hundred-dollar minimum fee required under division (Y)(2)(a) 37315
of this section. 37316

In the case of a sewage sludge facility that treats sewage 37317
sludge in this state and transfers it out of this state to another 37318

entity for disposal, the sewage sludge facility in this state 37319
shall be required to pay the annual sludge fee for the tons of 37320
sewage sludge that have been transferred. 37321

(d) A sewage sludge facility that generates sewage sludge 37322
resulting from an average daily discharge flow of less than five 37323
thousand gallons per day is not subject to the fees assessed under 37324
division (Y) of this section. 37325

(3) No sewage sludge facility required to pay the annual 37326
sludge fee shall be required to pay more than the maximum annual 37327
fee for each disposal method that the sewage sludge facility uses. 37328
The maximum annual fee does not include the additional amount that 37329
may be charged under division (Y)(5) of this section for late 37330
payment of the annual sludge fee. The maximum annual fee for the 37331
following methods of disposal of sewage sludge is as follows: 37332

(a) Incineration: five thousand dollars; 37333

(b) Preexisting land reclamation project or disposal in a 37334
landfill: five thousand dollars; 37335

(c) Land application, land reclamation, surface disposal, or 37336
any other disposal method not specified in division (Y)(3)(a) or 37337
(b) of this section: twenty thousand dollars. 37338

(4)(a) In the case of an entity that generates sewage sludge 37339
or a sewage sludge facility that treats sewage sludge and 37340
transfers the sewage sludge to an incineration facility for 37341
disposal, the incineration facility, and not the entity generating 37342
the sewage sludge or the sewage sludge facility treating the 37343
sewage sludge, shall pay the annual sludge fee for the tons of 37344
sewage sludge that are transferred. However, the entity or 37345
facility generating or treating the sewage sludge shall pay the 37346
one-hundred-dollar minimum fee required under division (Y)(2)(a) 37347
of this section. 37348

(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 37380
issue with the notification a new invoice to the person 37381
identifying the amount of the annual sludge fee assessed and 37382
stating the first day of July as the deadline for payment. 37383

Not later than the first day of July, any person who is 37384
required to do so shall pay the annual sludge fee. Any person who 37385
is required to pay the fee, but who fails to do so on or before 37386
that date shall pay an additional amount that equals ten per cent 37387
of the required annual sludge fee. 37388

(6) The director shall transmit all moneys collected under 37389
division (Y) of this section to the treasurer of state for deposit 37390
into the surface water protection fund created in section 6111.038 37391
of the Revised Code. The moneys shall be used to defray the costs 37392
of administering and enforcing provisions in Chapter 6111. of the 37393
Revised Code and rules adopted under it that govern the use, 37394
storage, treatment, or disposal of sewage sludge. 37395

(7) Beginning in fiscal year 2001, and every two years 37396
thereafter, the director shall review the total amount of moneys 37397
generated by the annual sludge fees to determine if that amount 37398
exceeded six hundred thousand dollars in either of the two 37399
preceding fiscal years. If the total amount of moneys in the fund 37400
exceeded six hundred thousand dollars in either fiscal year, the 37401
director, after review of the fee structure and consultation with 37402
affected persons, shall issue an order reducing the amount of the 37403
fees levied under division (Y) of this section so that the 37404
estimated amount of moneys resulting from the fees will not exceed 37405
six hundred thousand dollars in any fiscal year. 37406

If, upon review of the fees under division (Y)(7) of this 37407
section and after the fees have been reduced, the director 37408
determines that the total amount of moneys collected and 37409
accumulated is less than six hundred thousand dollars, the 37410

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);	37441 37442
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	37443 37444
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	37445 37446
(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.	37447 37448 37449
(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.	37450 37451 37452
(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.	37453 37454 37455 37456 37457
(g) "Land reclamation" means the returning of disturbed land to productive use.	37458 37459
(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.	37460 37461 37462 37463
(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.	37464 37465 37466 37467
(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	37468 37469 37470

they are separated by a public road or highway. 37471

(k) "Annual sludge fee" means the fee assessed under division 37472
(Y)(1) of this section. 37473

(l) "Landfill" means a sanitary landfill facility, as defined 37474
in rules adopted under section 3734.02 of the Revised Code, that 37475
is licensed under section 3734.05 of the Revised Code. 37476

(m) "Preexisting land reclamation project" means a 37477
property-specific land reclamation project that has been in 37478
continuous operation for not less than five years pursuant to 37479
approval of the activity by the director and includes the 37480
implementation of a community outreach program concerning the 37481
activity. 37482

Sec. 3745.114. (A) A person that applies for a section 401 37483
water quality certification under Chapter 6111. of the Revised 37484
Code and rules adopted under it shall pay an application fee of 37485
two hundred dollars at the time of application plus any of the 37486
following fees, as applicable: 37487

(1) If the water resource to be impacted is a wetland, a 37488
review fee of five hundred dollars per acre of wetland to be 37489
impacted; 37490

(2) If the water resource to be impacted is a stream, a 37491
review fee of ten dollars per linear foot of stream to be 37492
impacted; 37493

(3) If the water resource to be impacted is a lake, a review 37494
fee of three dollars per cubic yard of dredged or fill material to 37495
be moved. 37496

(B) The total fee to be paid under this section shall not 37497
exceed twenty-five thousand dollars per application. However, if 37498
the applicant is a county, township, or municipal corporation in 37499
this state, the total fee to be paid shall not exceed five 37500

thousand dollars per application. 37501

(C) All money collected under this section shall be 37502
transmitted to the treasurer of state for deposit into the state 37503
treasury to the credit of the surface water protection fund 37504
created in section 6111.038 of the Revised Code. 37505

(D) The fees established under this section do not apply to 37506
any state agency as defined in section 119.01 of the Revised Code. 37507

(E) The fees established under this section do not apply to 37508
projects that are authorized by the environmental protection 37509
agency's general certifications of nationwide permits or general 37510
permits issued by the United States army corps of engineers. As 37511
used in this division, "general permit" and "nationwide permit" 37512
have the same meanings as in rules adopted under Chapter 6111. of 37513
the Revised Code. 37514

(F) The fees established under this section do not apply to 37515
coal mining and reclamation operations that are authorized under 37516
Chapter 1513. of the Revised Code. 37517

Sec. 3745.12. (A) There is hereby created in the state 37518
treasury the immediate removal fund, which shall be administered 37519
by the director of environmental protection. The fund may be used 37520
for both of the following purposes: 37521

(1) To pay costs incurred by the environmental protection 37522
agency in investigating, mitigating, minimizing, removing, or 37523
abating any unauthorized spill, release, or discharge of material 37524
into or upon the environment that requires emergency action to 37525
protect the public health or safety or the environment; 37526

(2) Conducting remedial actions under section 3752.13 of the 37527
Revised Code. 37528

(B) Any person responsible for causing or allowing the 37529
unauthorized spill, release, or discharge is liable to the 37530

director for the costs incurred by the agency regardless of
whether those costs were paid out of the fund created under
division (A) of this section or any other fund of the agency. Upon
the request of the director, the attorney general shall bring a
civil action against the responsible person to recover those
costs. Moneys recovered under this division shall be paid into the
state treasury to the credit of the immediate removal fund, except
that moneys recovered for costs paid from the hazardous waste
clean-up fund created in section 3734.28 of the Revised Code shall
be credited to the hazardous waste clean-up fund.

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Sec. 3746.04. Within one year after September 28, 1994, the
director of environmental protection, in accordance with Chapter
119. of the Revised Code and with the advice of the
multidisciplinary council appointed under section 3746.03 of the
Revised Code, shall adopt, and subsequently may amend, suspend, or
rescind, rules that do both of the following:

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(A) Revise the rules adopted under Chapters 3704., 3714.,
3734., 6109., and 6111. of the Revised Code to incorporate the
provisions necessary to conform those rules to the requirements of
this chapter. The amended rules adopted under this division also
shall establish response times for all submittals to the
environmental protection agency required under this chapter or
rules adopted under it.

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(B) Establish requirements and procedures that are reasonably
necessary for the implementation and administration of this
chapter, including, without limitation, all of the following:

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(1) Appropriate generic numerical clean-up standards for the
treatment or removal of soils, sediments, and water media for
hazardous substances and petroleum. The rules shall establish
separate generic numerical clean-up standards based upon the
intended use of properties after the completion of voluntary

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actions, including industrial, commercial, and residential uses 37562
and such other categories of land use as the director considers to 37563
be appropriate. The generic numerical clean-up standards 37564
established for each category of land use shall be the 37565
concentration of each contaminant that may be present on a 37566
property that shall ensure protection of public health and safety 37567
and the environment for the reasonable exposure for that category 37568
of land use. When developing the standards, the director shall 37569
consider such factors as all of the following: 37570

(a) Scientific information, including, without limitation, 37571
toxicological information and realistic assumptions regarding 37572
human and environmental exposure to hazardous substances or 37573
petroleum; 37574

(b) Climatic factors; 37575

(c) Human activity patterns; 37576

(d) Current statistical techniques; 37577

(e) For petroleum at industrial property, alternatives to the 37578
use of total petroleum hydrocarbons. 37579

The generic numerical clean-up standards established in the 37580
rules adopted under division (B)(1) of this section shall be 37581
consistent with and equivalent in scope, content, and coverage to 37582
any applicable standard established by federal environmental laws 37583
and regulations adopted under them, including, without limitation, 37584
the "Federal Water Pollution Control Act Amendments of 1972," 86 37585
Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource 37586
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 37587
6921, as amended; the "Toxic Substances Control Act," 90 Stat. 37588
2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive 37589
Environmental Response, Compensation, and Liability Act of 1980," 37590
94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe 37591
Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as 37592

amended. 37593

In order for the rules adopted under division (B)(1) of this 37594
section to require that any such federal environmental standard 37595
apply to a property, the property shall meet the requirements of 37596
the particular federal statute or regulation involved in the 37597
manner specified by the statute or regulation. 37598

The generic numerical clean-up standards for petroleum at 37599
commercial or residential property shall be the standards 37600
established in rules adopted under division (B) of section 37601
3737.882 of the Revised Code. 37602

(2)(a) Procedures for performing property-specific risk 37603
assessments that would be performed at a property to demonstrate 37604
that the remedy evaluated in a risk assessment results in 37605
protection of public health and safety and the environment instead 37606
of complying with the generic numerical clean-up standards 37607
established in the rules adopted under division (B)(1) of this 37608
section. The risk assessment procedures shall describe a 37609
methodology to establish, on a property-specific basis, allowable 37610
levels of contamination to remain at a property to ensure 37611
protection of public health and safety and the environment on the 37612
property and off the property when the contamination is emanating 37613
off the property, taking into account all of the following: 37614

(i) The implementation of treatment, storage, or disposal, or 37615
a combination thereof, of hazardous substances or petroleum; 37616

(ii) The existence of institutional controls or activity and 37617
use limitations that eliminate or mitigate exposure to hazardous 37618
substances or petroleum through the restriction of access to 37619
hazardous substances or petroleum; 37620

(iii) The existence of engineering controls that eliminate or 37621
mitigate exposure to hazardous substances or petroleum through 37622
containment of, control of, or restrictions of access to hazardous 37623

substances or petroleum, including, without limitation, fences, 37624
cap systems, cover systems, and landscaping. 37625

(b) The risk assessment procedures and levels of acceptable 37626
risk set forth in the rules adopted under division (B)(2) of this 37627
section shall be based upon all of the following: 37628

(i) Scientific information, including, without limitation, 37629
toxicological information and actual or proposed human and 37630
environmental exposure; 37631

(ii) Locational and climatic factors; 37632

(iii) Surrounding land use and human activities; 37633

(iv) Differing levels of remediation that may be required 37634
when an existing land use is continued compared to when a 37635
different land use follows the remediation. 37636

(c) Any standards established pursuant to rules adopted under 37637
division (B)(2) of this section shall be no more stringent than 37638
standards established under the environmental statutes of this 37639
state and rules adopted under them for the same contaminant in the 37640
same environmental medium that are in effect at the time the risk 37641
assessment is conducted. 37642

(3) Minimum standards for phase I property assessments. The 37643
standards shall specify the information needed to demonstrate that 37644
there is no reason to believe that contamination exists on a 37645
property. The rules adopted under division (B)(3) of this section, 37646
at a minimum, shall require that a phase I property assessment 37647
include all of the following: 37648

(a) A review and analysis of deeds, mortgages, easements of 37649
record, and similar documents relating to the chain of title to 37650
the property that are publicly available or that are known to and 37651
reasonably available to the owner or operator; 37652

(b) A review and analysis of any previous environmental 37653

assessments, property assessments, environmental studies, or 37654
geologic studies of the property and any land within two thousand 37655
feet of the boundaries of the property that are publicly available 37656
or that are known to and reasonably available to the owner or 37657
operator; 37658

(c) A review of current and past environmental compliance 37659
histories of persons who owned or operated the property; 37660

(d) A review of aerial photographs of the property that 37661
indicate prior uses of the property; 37662

(e) Interviews with managers of activities conducted at the 37663
property who have knowledge of environmental conditions at the 37664
property; 37665

(f) Conducting an inspection of the property consisting of a 37666
walkover; 37667

(g) Identifying the current and past uses of the property, 37668
adjoining tracts of land, and the area surrounding the property, 37669
including, without limitation, interviews with persons who reside 37670
or have resided, or who are or were employed, within the area 37671
surrounding the property regarding the current and past uses of 37672
the property and adjacent tracts of land. 37673

The rules adopted under division (B)(3) of this section shall 37674
establish criteria to determine when a phase II property 37675
assessment shall be conducted when a phase I property assessment 37676
reveals facts that establish a reason to believe that hazardous 37677
substances or petroleum have been treated, stored, managed, or 37678
disposed of on the property if the person undertaking the phase I 37679
property assessment wishes to obtain a covenant not to sue under 37680
section 3746.12 of the Revised Code. 37681

(4) Minimum standards for phase II property assessments. The 37682
standards shall specify the information needed to demonstrate that 37683

any contamination present at the property does not exceed 37684
applicable standards or that the remedial activities conducted at 37685
the property have achieved compliance with applicable standards. 37686
The rules adopted under division (B)(4) of this section, at a 37687
minimum, shall require that a phase II property assessment include 37688
all of the following: 37689

(a) A review and analysis of all documentation prepared in 37690
connection with a phase I property assessment conducted within the 37691
one hundred eighty days before the phase II property assessment 37692
begins. The rules adopted under division (B)(4)(a) of this section 37693
shall require that if a period of more than one hundred eighty 37694
days has passed between the time that the phase I assessment of 37695
the property was completed and the phase II assessment begins, the 37696
phase II assessment shall include a reasonable inquiry into the 37697
change in the environmental condition of the property during the 37698
intervening period. 37699

(b) Quality assurance objectives for measurements taken in 37700
connection with a phase II assessment; 37701

(c) Sampling procedures to ensure the representative sampling 37702
of potentially contaminated environmental media; 37703

(d) Quality assurance and quality control requirements for 37704
samples collected in connection with phase II assessments; 37705

(e) Analytical and data assessment procedures; 37706

(f) Data objectives to ensure that samples collected in 37707
connection with phase II assessments are biased toward areas where 37708
information indicates that contamination by hazardous substances 37709
or petroleum is likely to exist. 37710

(5) Standards governing the conduct of certified 37711
professionals, criteria and procedures for the certification of 37712
professionals to issue no further action letters under section 37713

3746.11 of the Revised Code, and criteria for the suspension and 37714
revocation of those certifications. The director shall take an 37715
action regarding a certification as a final action. The issuance, 37716
denial, renewal, suspension, and revocation of those 37717
certifications are subject to Chapter 3745. of the Revised Code, 37718
~~and the director shall take any such action regarding a~~ 37719
~~certification as a final action~~ except that, in lieu of publishing 37720
an action regarding a certification in a newspaper of general 37721
circulation as required in section 3745.07 of the Revised Code, 37722
such an action shall be published on the environmental protection 37723
agency's web site and in the agency's weekly review not later than 37724
fifteen days after the date of the issuance, denial, renewal, 37725
suspension, or revocation of the certification and not later than 37726
thirty days before a hearing or public meeting concerning the 37727
action. 37728

The rules adopted under division (B)(5) of this section shall 37729
do all of the following: 37730

(a) Provide for the certification of environmental 37731
professionals to issue no further action letters pertaining to 37732
investigations and remedies in accordance with the criteria and 37733
procedures set forth in the rules. The rules adopted under 37734
division (B)(5)(a) of this section shall do at least all of the 37735
following: 37736

(i) Authorize the director to consider such factors as an 37737
environmental professional's previous performance record regarding 37738
such investigations and remedies and the environmental 37739
professional's environmental compliance history when determining 37740
whether to certify the environmental professional; 37741

(ii) Ensure that an application for certification is reviewed 37742
in a timely manner; 37743

(iii) Require the director to certify any environmental 37744

professional who the director determines complies with those 37745
criteria; 37746

(iv) Require the director to deny certification for any 37747
environmental professional who does not comply with those 37748
criteria. 37749

(b) Establish an annual fee to be paid by environmental 37750
professionals certified pursuant to the rules adopted under 37751
division (B)(5)(a) of this section. The fee shall be established 37752
at an amount calculated to defray the costs to the ~~environmental~~ 37753
~~protection~~ agency for the required reviews of the qualifications 37754
of environmental professionals for certification and for the 37755
issuance of the certifications. 37756

(c) Develop a schedule for and establish requirements 37757
governing the review by the director of the credentials of 37758
environmental professionals who were deemed to be certified 37759
professionals under division (D) of section 3746.07 of the Revised 37760
Code in order to determine if they comply with the criteria 37761
established in rules adopted under division (B)(5) of this 37762
section. The rules adopted under division (B)(5)(c) of this 37763
section shall do at least all of the following: 37764

(i) Ensure that the review is conducted in a timely fashion; 37765

(ii) Require the director to certify any such environmental 37766
professional who the director determines complies with those 37767
criteria; 37768

(iii) Require any such environmental professional initially 37769
to pay the fee established in the rules adopted under division 37770
(B)(5)(b) of this section at the time that the environmental 37771
professional is so certified by the director; 37772

(iv) Establish a time period within which any such 37773
environmental professional who does not comply with those criteria 37774

may obtain the credentials that are necessary for certification; 37775

(v) Require the director to deny certification for any such 37776
environmental professional who does not comply with those criteria 37777
and who fails to obtain the necessary credentials within the 37778
established time period. 37779

(d) Require that any information submitted to the director 37780
for the purposes of the rules adopted under division (B)(5)(a) or 37781
(c) of this section comply with division (A) of section 3746.20 of 37782
the Revised Code; 37783

(e) Authorize the director to suspend or revoke the 37784
certification of an environmental professional if the director 37785
finds that the environmental professional's performance has 37786
resulted in the issuance of no further action letters under 37787
section 3746.11 of the Revised Code that are not consistent with 37788
applicable standards or finds that the certified environmental 37789
professional has not substantially complied with section 3746.31 37790
of the Revised Code; 37791

(f) Authorize the director to suspend for a period of not 37792
more than five years or to permanently revoke a certified 37793
environmental professional's certification for any violation of or 37794
failure to comply with an ethical standard established in rules 37795
adopted under division (B)(5) of this section-; 37796

(g) Require the director to revoke the certification of an 37797
environmental professional if the director finds that the 37798
environmental professional falsified any information on the 37799
environmental professional's application for certification 37800
regarding the environmental professional's credentials or 37801
qualifications or any other information generated for the purposes 37802
of or use under this chapter or rules adopted under it; 37803

(h) Require the director permanently to revoke the 37804
certification of an environmental professional who has violated or 37805

is violating division (A) of section 3746.18 of the Revised Code; 37806

(i) Preclude the director from revoking the certification of 37807
an environmental professional who only conducts investigations and 37808
remedies at property contaminated solely with petroleum unless the 37809
director first consults with the director of commerce. 37810

(6) Criteria and procedures for the certification of 37811
laboratories to perform analyses under this chapter and rules 37812
adopted under it. The issuance, denial, suspension, and revocation 37813
of those certifications are subject to Chapter 3745. of the 37814
Revised Code, and the director of environmental protection shall 37815
take any such action regarding a certification as a final action. 37816

The rules adopted under division (B)(6) of this section shall 37817
do all of the following: 37818

(a) Provide for the certification to perform analyses of 37819
laboratories in accordance with the criteria and procedures 37820
established in the rules adopted under division (B)(6)(a) of this 37821
section and establish an annual fee to be paid by those 37822
laboratories. The fee shall be established at an amount calculated 37823
to defray the costs to the agency for the review of the 37824
qualifications of those laboratories for certification and for the 37825
issuance of the certifications. The rules adopted under division 37826
(B)(6)(a) of this section may provide for the certification of 37827
those laboratories to perform only particular types or categories 37828
of analyses, specific test parameters or group of test parameters, 37829
or a specific matrix or matrices under this chapter. 37830

(b) Develop a schedule for and establish requirements 37831
governing the review by the director of the operations of 37832
laboratories that were deemed to be certified laboratories under 37833
division (E) of section 3746.07 of the Revised Code in order to 37834
determine if they comply with the criteria established in rules 37835
adopted under division (B)(6) of this section. The rules adopted 37836

under division (B)(6)(b) of this section shall do at least all of 37837
the following: 37838

(i) Ensure that the review is conducted in a timely fashion; 37839

(ii) Require the director to certify any such laboratory that 37840
the director determines complies with those criteria; 37841

(iii) Require any such laboratory initially to pay the fee 37842
established in the rules adopted under division (B)(6)(a) of this 37843
section at the time that the laboratory is so certified by the 37844
director; 37845

(iv) Establish a time period within which any such laboratory 37846
that does not comply with those criteria may make changes in its 37847
operations necessary for the performance of analyses under this 37848
chapter and rules adopted under it in order to be certified by the 37849
director; 37850

(v) Require the director to deny certification for any such 37851
laboratory that does not comply with those criteria and that fails 37852
to make the necessary changes in its operations within the 37853
established time period. 37854

(c) Require that any information submitted to the director 37855
for the purposes of the rules adopted under division (B)(6)(a) or 37856
(b) of this section comply with division (A) of section 3746.20 of 37857
the Revised Code; 37858

(d) Authorize the director to suspend or revoke the 37859
certification of a laboratory if the director finds that the 37860
laboratory's performance has resulted in the issuance of no 37861
further action letters under section 3746.11 of the Revised Code 37862
that are not consistent with applicable standards; 37863

(e) Authorize the director to suspend or revoke the 37864
certification of a laboratory if the director finds that the 37865
laboratory falsified any information on its application for 37866

certification regarding its credentials or qualifications;	37867
(f) Require the director permanently to revoke the	37868
certification of a laboratory that has violated or is violating	37869
division (A) of section 3746.18 of the Revised Code.	37870
(7) Information to be included in a no further action letter	37871
prepared under section 3746.11 of the Revised Code, including,	37872
without limitation, all of the following:	37873
(a) A summary of the information required to be submitted to	37874
the certified environmental professional preparing the no further	37875
action letter under division (C) of section 3746.10 of the Revised	37876
Code;	37877
(b) Notification that a risk assessment was performed in	37878
accordance with rules adopted under division (B)(2) of this	37879
section if such an assessment was used in lieu of generic	37880
numerical clean-up standards established in rules adopted under	37881
division (B)(1) of this section;	37882
(c) The contaminants addressed at the property, if any, their	37883
source, if known, and their levels prior to remediation;	37884
(d) The identity of any other person who performed work to	37885
support the request for the no further action letter as provided	37886
in division (B)(2) of section 3746.10 of the Revised Code and the	37887
nature and scope of the work performed by that person;	37888
(e) A list of the data, information, records, and documents	37889
relied upon by the certified environmental professional in	37890
preparing the no further action letter.	37891
(8) Methods for determining fees to be paid for the following	37892
services provided by the agency under this chapter and rules	37893
adopted under it:	37894
(a) Site- or property-specific technical assistance in	37895
developing or implementing plans in connection with a voluntary	37896

action; 37897

(b) Reviewing applications for and issuing consolidated 37898
standards permits under section 3746.15 of the Revised Code and 37899
monitoring compliance with those permits; 37900

(c) Negotiating, preparing, and entering into agreements 37901
necessary for the implementation and administration of this 37902
chapter and rules adopted under it; 37903

(d) Reviewing no further action letters, issuing covenants 37904
not to sue, and monitoring compliance with any terms and 37905
conditions of those covenants and with operation and maintenance 37906
agreements entered into pursuant to those covenants, including, 37907
without limitation, conducting audits of properties where 37908
voluntary actions are being or were conducted under this chapter 37909
and rules adopted under it. 37910

The fees established pursuant to the rules adopted under 37911
division (B)(8) of this section shall be at a level sufficient to 37912
defray the direct and indirect costs incurred by the agency for 37913
the administration and enforcement of this chapter and rules 37914
adopted under it other than the provisions regarding the 37915
certification of professionals and laboratories. 37916

(9) Criteria for selecting the no further action letters 37917
issued under section 3746.11 of the Revised Code that will be 37918
audited under section 3746.17 of the Revised Code, and the scope 37919
and procedures for conducting those audits. The rules adopted 37920
under division (B)(9) of this section, at a minimum, shall require 37921
the director to establish priorities for auditing no further 37922
action letters to which any of the following applies: 37923

(a) The letter was prepared by an environmental professional 37924
who was deemed to be a certified professional under division (D) 37925
of section 3746.07 of the Revised Code, but who does not comply 37926
with the criteria established in rules adopted under division 37927

(B)(5) of this section as determined pursuant to rules adopted 37928
under division (B)(5)(d) of this section-;i 37929

(b) The letter was submitted fraudulently-;i 37930

(c) The letter was prepared by a certified environmental 37931
professional whose certification subsequently was revoked in 37932
accordance with rules adopted under division (B)(5) of this 37933
section, or analyses were performed for the purposes of the no 37934
further action letter by a certified laboratory whose 37935
certification subsequently was revoked in accordance with rules 37936
adopted under division (B)(6) of this section-;i 37937

(d) A covenant not to sue that was issued pursuant to the 37938
letter was revoked under this chapter-;i 37939

(e) The letter was for a voluntary action that was conducted 37940
pursuant to a risk assessment in accordance with rules adopted 37941
under division (B)(2) of this section-;i 37942

(f) The letter was for a voluntary action that included as 37943
remedial activities engineering controls or institutional controls 37944
or activity and use limitations authorized under section 3746.05 37945
of the Revised Code. 37946

The rules adopted under division (B)(9) of this section shall 37947
provide for random audits of no further action letters to which 37948
the rules adopted under divisions (B)(9)(a) to (f) of this section 37949
do not apply. 37950

(10) A classification system to characterize ground water 37951
according to its capability to be used for human use and its 37952
impact on the environment and a methodology that shall be used to 37953
determine when ground water that has become contaminated from 37954
sources on a property for which a covenant not to sue is requested 37955
under section 3746.11 of the Revised Code shall be remediated to 37956
the standards established in the rules adopted under division 37957

(B)(1) or (2) of this section.	37958
(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:	37959 37960 37961
(i) The presence of legally enforceable, reliable restrictions on the use of ground water, including, without limitation, local rules or ordinances;	37962 37963 37964
(ii) The presence of regional commingled contamination from multiple sources that diminishes the quality of ground water;	37965 37966
(iii) The natural quality of ground water;	37967
(iv) Regional availability of ground water and reasonable alternative sources of drinking water;	37968 37969
(v) The productivity of the aquifer;	37970
(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;	37971 37972
(vii) The existing use of ground water.	37973
(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:	37974 37975 37976
(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;	37977 37978 37979
(ii) The availability and feasibility of technology to remedy ground water contamination.	37980 37981
(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;	37982 37983
(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	37984 37985 37986

rules adopted under division (B)(1) of this section and standards 37987
established through a risk assessment conducted pursuant to rules 37988
adopted under division (B)(2) of this section shall be 37989
inapplicable to the remediation of contaminated ground water and 37990
under which the standards for remediating contaminated ground 37991
water shall be established on a case-by-case basis prior to the 37992
commencement of the voluntary action pursuant to rules adopted 37993
under division (B)(12)(b) of this section; 37994

(b) Criteria and procedures for the case-by-case 37995
establishment of standards for the remediation of contaminated 37996
ground water under circumstances in which the use of the generic 37997
numerical clean-up standards and standards established through a 37998
risk assessment are precluded by the rules adopted under division 37999
(B)(12)(a) of this section. The rules governing the procedures for 38000
the case-by-case development of standards for the remediation of 38001
contaminated ground water shall establish application, public 38002
participation, adjudication, and appeals requirements and 38003
procedures that are equivalent to the requirements and procedures 38004
established in section 3746.09 of the Revised Code and rules 38005
adopted under division (B)(11) of this section, except that the 38006
procedural rules shall not require an applicant to make the 38007
demonstrations set forth in divisions (A)(1) to (3) of section 38008
3746.09 of the Revised Code. 38009

(13) A definition of the evidence that constitutes sufficient 38010
evidence for the purpose of division (A)(5) of section 3746.02 of 38011
the Revised Code. 38012

At least thirty days before filing the proposed rules 38013
required to be adopted under this section with the secretary of 38014
state, director of the legislative service commission, and joint 38015
committee on agency rule review in accordance with divisions (B) 38016
and (H) of section 119.03 of the Revised Code, the director of 38017
environmental protection shall hold at least one public meeting on 38018

the proposed rules in each of the five districts into which the 38019
agency has divided the state for administrative purposes. 38020

Sec. 3746.071. (A) As used in this section, "certified 38021
professional" means a certified professional deemed to be 38022
certified under division (D) of section 3746.07 of the Revised 38023
Code. 38024

(B) A certified professional shall do all of the following: 38025

(1) Protect the safety, health, and welfare of the public in 38026
the performance of ~~his~~ professional duties. If a circumstance 38027
arises where the certified professional faces a situation where 38028
the safety, health, or welfare of the public would not be 38029
protected, ~~he~~ the certified professional shall do all of the 38030
following: 38031

(a) Sever ~~his~~ the relationship with ~~his~~ the certified 38032
professional's employer or client; 38033

(b) Refuse to accept responsibility for the design, report, 38034
or statement involved; 38035

(c) Notify the director of environmental protection if, in 38036
the opinion of the certified professional, the situation is 38037
sufficiently important. 38038

(2) Undertake to perform assignments only when ~~he~~ the 38039
certified professional or ~~his~~ the certified professional's 38040
consulting support is qualified by training and experience in the 38041
specific technical fields involved; 38042

(3) Be completely objective in any professional report, 38043
statement, or testimony. ~~He~~ The certified professional shall 38044
include all relevant and pertinent information in the report, 38045
statement, or testimony when the result of an omission would or 38046
reasonably could lead to a fallacious conclusion. 38047

(4) Express an opinion as a technical or expert witness 38048
before any court, commission, or other tribunal only when it is 38049
founded upon adequate knowledge of the facts in issue, upon a 38050
background of technical competence in the subject matter, and upon 38051
honest conviction of the accuracy and propriety of ~~his~~ the 38052
testimony. 38053

(C) A certified professional shall not issue statements, 38054
criticisms, or arguments on matters connected with public policy 38055
that are inspired or paid for by an interested party, unless ~~he~~ 38056
the certified professional has prefaced ~~his~~ the remarks by 38057
explicitly identifying ~~himself~~ the certified professional, by 38058
disclosing the identity of the parties on whose behalf ~~he~~ the 38059
certified professional is speaking, and by revealing the existence 38060
of any pecuniary interest ~~he~~ the certified professional may have 38061
in the instant matters. 38062

(D)(1) A certified professional shall conscientiously avoid 38063
any conflict of interest with ~~his~~ the certified professional's 38064
employer or client. 38065

(2) A certified professional promptly shall inform ~~his~~ the 38066
certified professional's employer or client of any business 38067
association, interests, or circumstances that could influence ~~his~~ 38068
the certified professional's judgment or the quality of ~~his~~ the 38069
certified professional's service to ~~his~~ the employer or client. 38070

(3) A certified professional shall not accept compensation, 38071
financial or otherwise, from more than one party for services on 38072
or pertaining to the same project, unless the circumstances are 38073
fully disclosed to, and agreed to, by all interested parties or 38074
their duly authorized agents. 38075

(4) A certified professional shall not solicit or accept 38076
financial or other valuable considerations from material or 38077
equipment suppliers for specifying their products. 38078

(5) A certified professional shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing directly with ~~his~~ the certified professional's employer or client in connection with the work for which ~~he~~ the certified professional is responsible.

(E)(1) A certified professional shall not pay, solicit, or offer, directly or indirectly, any bribe or commission for professional employment with the exception of ~~his~~ payment of the usual commission for securing salaried positions through licensed employment agencies.

(2) A certified professional shall seek professional employment on the basis of qualification and competence for proper accomplishment of the work. A certified professional may submit proposed fee information prior to ~~his~~ selection to serve as a certified professional under this chapter and rules adopted under it.

(3) A certified professional shall not falsify or permit misrepresentation of ~~his~~ the certified professional's or ~~his~~ the certified professional's associates' academic or professional qualifications. ~~He~~ The certified professional shall not misrepresent or exaggerate ~~his~~ the certified professional's degree of responsibility in or for the subject matter of prior assignments.

(4) Brochures or other presentations incident to the solicitation of employment by a certified professional shall not misrepresent pertinent facts concerning ~~his~~ the certified professional's employers, employees, associates, or joint ventures, or ~~his or their~~ the past accomplishments of any of them, with the intent and purpose of enhancing ~~his~~ the certified professional's qualifications for ~~his~~ the certified professional's work.

(F)(1) A certified professional shall not sign or seal professional work for which ~~he~~ the certified professional does not have personal professional knowledge and direct supervisory control and responsibility.

(2) A certified professional shall not knowingly associate with, or permit the use of ~~his~~ the certified professional's own name or ~~his firm's~~ the name of the certified professional's firm in, a business venture by any person or firm that ~~he~~ the certified professional knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(3) If a certified professional has knowledge or reason to believe that another person or firm has violated any of the provisions of this chapter or any requirement of this section, ~~he~~ the certified professional shall present the information to the director in writing.

(G) The director, in accordance with ~~Chapter 3745-~~ rules adopted under section 3746.04 of the Revised Code, may suspend for a period of not more than five years or permanently revoke a certified professional's certification for a violation of or failure to comply with any requirement or obligation set forth in this section.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration shall be accompanied by a biennial registration fee of 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, 38171
according to the schedule established in rules adopted under 38172
division (D) of section 3748.04 of the Revised Code. In accordance 38173
with rules adopted under that section, the director shall inspect 38174
all records and operating procedures of handlers that install 38175
sources of radiation and all sources of radiation for which 38176
licensure of radioactive material or registration of 38177
radiation-generating equipment by the handler is required. The 38178
director may make other inspections upon receiving complaints or 38179
other evidence of violation of this chapter or rules adopted under 38180
it. 38181

The director shall require any hospital registered under 38182
division (A) of section 3701.07 of the Revised Code to develop and 38183
maintain a quality assurance program for all sources of 38184
radiation-generating equipment. A certified radiation expert shall 38185
conduct oversight and maintenance of the program and shall file a 38186
report of audits of the program with the director on forms 38187
prescribed by the director. The audit reports shall become part of 38188
the inspection record. 38189

(B) Until rules are adopted under division (A)(8) of section 38190
3748.04 of the Revised Code, a facility shall pay inspection fees 38191
according to the following schedule and categories: 38192

First dental x-ray tube	\$ 118.00 <u>129.00</u>	38193
Each additional dental x-ray tube at the same location	\$ 59.00 <u>64.00</u>	38194
First medical x-ray tube	\$ 235.00 <u>256.00</u>	38195
Each additional medical x-ray tube at the same location	\$ 125.00 <u>136.00</u>	38196
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 466.00 <u>508.00</u>	38197

First nonionizing radiation-generating equipment of any kind	\$ 235.00 <u>256.00</u>	38198
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 125.00 <u>136.00</u>	38199
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>	38200
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.		38201 38202 38203 38204 38205 38206 38207 38208 38209 38210
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.		38211 38212 38213 38214 38215 38216 38217 38218 38219
All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees		38220 38221

shall be deposited in the general operations fund created in 38222
section 3701.83 of the Revised Code. The fees shall be used solely 38223
to administer and enforce this chapter and rules adopted under it. 38224

Any fee required under this section that has not been paid 38225
within ninety days after the invoice date shall be assessed at two 38226
times the original invoiced fee. Any fee that has not been paid 38227
within one hundred eighty days after the invoice date shall be 38228
assessed at five times the original invoiced fee. 38229

(C) If the director determines that a board of health of a 38230
city or general health district is qualified to conduct 38231
inspections of radiation-generating equipment, the director may 38232
delegate to the board, by contract, the authority to conduct such 38233
inspections. In making a determination of the qualifications of a 38234
board of health to conduct those inspections, the director shall 38235
evaluate the credentials of the individuals who are to conduct the 38236
inspections of radiation-generating equipment and the radiation 38237
detection and measuring equipment available to them for that 38238
purpose. If a contract is entered into, the board shall have the 38239
same authority to make inspections of radiation-generating 38240
equipment as the director has under this chapter and rules adopted 38241
under it. The contract shall stipulate that only individuals 38242
approved by the director as qualified shall be permitted to 38243
inspect radiation-generating equipment under the contract's 38244
provisions. The contract shall provide for such compensation for 38245
services as is agreed to by the director and the board of health 38246
of the contracting health district. The director may reevaluate 38247
the credentials of the inspection personnel and their radiation 38248
detecting and measuring equipment as often as the director 38249
considers necessary and may terminate any contract with the board 38250
of health of any health district that, in the director's opinion, 38251
is not satisfactorily performing the terms of the contract. 38252

(D) The director may enter at all reasonable times upon any 38253

public or private property to determine compliance with this 38254
chapter and rules adopted under it. 38255

Sec. 3770.061. There is hereby created in the state treasury 38256
the charitable gaming oversight fund. The state lottery commission 38257
shall credit to the fund any money it receives from the office of 38258
the attorney general under any agreement the commission and the 38259
office have entered into under division (I) of section 2915.08 of 38260
the Revised Code. The commission shall use money in the fund to 38261
provide oversight, licensing, and monitoring of charitable gaming 38262
activities in this state in accordance with the agreement and 38263
Chapter 2915. of the Revised Code. Not later than the first day of 38264
July of each fiscal year, or as soon as possible thereafter, the 38265
commission may certify to the office of budget and management any 38266
unobligated fund balances not necessary to be used under this 38267
section. The commission may request the office of budget and 38268
management to transfer these balances to the lottery profits 38269
education fund for use in accordance with section 3770.06 of the 38270
Revised Code. 38271

Sec. 3773.34. (A) The Ohio athletic commission shall adopt 38272
and may amend or rescind rules in accordance with Chapter 119. of 38273
the Revised Code, prescribing the conditions under which prize 38274
fights and public boxing or wrestling matches or exhibitions may 38275
be conducted, classifying professional boxers by weight, and 38276
providing for the administration of sections 3773.31 to 3773.57 of 38277
the Revised Code. The rules may require that an applicant for a 38278
contestant's license to participate in a public boxing match or 38279
exhibition take an HIV test, as defined in section 3701.24 of the 38280
Revised Code, before being issued the contestant's license and may 38281
require that a licensed contestant take such an HIV test before 38282
participating in a public boxing match or exhibition. The 38283
commission, or the commission's executive director when authorized 38284

by the commission, may issue, deny, suspend, or revoke permits to 38285
hold prize fights and public boxing or wrestling matches or 38286
exhibitions, ~~and. The commission~~ may issue, deny, suspend, or 38287
revoke licenses to persons engaged in any public boxing match or 38288
exhibition as authorized by sections 3773.31 to 3773.57 of the 38289
Revised Code. 38290

(B) In addition to the duties set forth in this chapter, the 38291
Ohio athletic commission shall take action as necessary to carry 38292
out the provisions of Chapter 4771. of the Revised Code governing 38293
athlete agents. 38294

(C) On or before the thirty-first day of December of each 38295
year, the commission shall make a report to the governor of its 38296
proceedings for the year ending on the first day of December of 38297
that calendar year, and may include in the report any 38298
recommendations pertaining to its duties. 38299

Sec. 3773.38. Each person who holds a promoter's license 38300
issued under section 3773.36 of the Revised Code who desires to 38301
conduct a public boxing or wrestling match or exhibition where one 38302
or more contests are to be held shall obtain a permit from the 38303
Ohio athletic commission or the commission's executive director 38304
when the executive director is authorized by the commission to 38305
issue those types of permits. Application for such a permit shall 38306
be made in writing and on forms prescribed by the commission, 38307
shall be filed with the commission, and shall be accompanied by 38308
the permit fee prescribed in section 3773.43 of the Revised Code. 38309

The application for a permit issued under this section shall 38310
include the date and starting time of the match or exhibition, the 38311
address of the place where the match or exhibition is to be held, 38312
the names of the contestants, the seating capacity of the building 38313
or hall where the exhibition is to be held, the admission charge 38314

or any other charges, the amount of compensation or the percentage 38315
of gate receipts to be paid to each contestant, the name and 38316
address of the applicant, a copy of the current official rules 38317
that govern the particular sport, and the serial number of the 38318
applicant's promoter's license. 38319

The commission, or the commission's executive director when 38320
authorized by the commission, may require the applicant to deposit 38321
with the commission before a public boxing match or exhibition a 38322
cash bond, certified check, bank draft, or surety bond in an 38323
amount equal to five per cent of the estimated gross receipts from 38324
the match or exhibition. 38325

Sec. 3773.39. (A) Upon receipt of an application for a permit 38326
to hold a public boxing or wrestling match or exhibition under 38327
section 3773.38 of the Revised Code, the Ohio athletic commission, 38328
or the commission's executive director when authorized by the 38329
commission, shall determine if the applicant holds a valid 38330
promoter's license issued pursuant to section 3773.36 of the 38331
Revised Code. Upon receipt of an application for a permit to hold 38332
a public boxing match or exhibition, the commission, or the 38333
commission's executive director when authorized by the commission, 38334
also shall determine if the contestants are evenly and fairly 38335
matched according to skill, experience, and weight so as to 38336
produce a fair and sportsmanlike contest, and whether the 38337
applicant is financially responsible and is able to pay to each 38338
contestant the compensation or percentage of the gate receipts 38339
named in the application. The commission, or the commission's 38340
executive director when authorized by the commission, may, if 38341
applicable, require the applicant to deposit with it within 38342
forty-eight hours before the match or exhibition the total 38343
compensation or estimated portion of gate receipts to be paid all 38344
contestants named in the application made under section 3773.38 of 38345

the Revised Code. 38346

(B) If the commission, or the commission's executive director 38347
when authorized by the commission, determines that the applicant 38348
has met all the requirements specified in division (A) of this 38349
section, ~~it~~ the commission or executive director shall issue the 38350
applicant a permit to conduct the match or exhibition. If the 38351
applicant fails to deposit any compensation or portion of gate 38352
receipts required by the commission, or executive director before 38353
the first contest of the match or exhibition is held, the 38354
commission, or the commission's executive director when authorized 38355
by the commission, may revoke the permit and order the applicant 38356
not to conduct the match or exhibition described in the permit. 38357

(C) Each permit issued pursuant to this section shall bear 38358
the name and post office address of the applicant, the address of 38359
the place where the public boxing or wrestling match or exhibition 38360
is to be held, the date and starting time of the match or 38361
exhibition, and a serial number designated by the commission. 38362

A permit issued under this section shall allow the permit 38363
holder to conduct only the match or exhibition named in the 38364
permit. A permit is not transferable. 38365

Sec. 3773.40. No person who holds a promoter's license to 38366
conduct a public boxing match or exhibition under section 3773.36 38367
of the Revised Code shall: 38368

(A) Hold any match or exhibition at any time or place other 38369
than that stated on a permit issued under section 3773.38 of the 38370
Revised Code; 38371

(B) Allow any contestant to participate in the match or 38372
exhibition unless the contestant is the licensed contestant named 38373
in the application for such permit or a licensed contestant 38374
authorized to compete as a substitute for such a contestant by the 38375

inspector assigned to the facility where the match or exhibition
is held for that match or exhibition; 38376
38377

(C) Charge a higher admission price for a match or exhibition
than that stated in the application; 38378
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(D) Pay a greater compensation or percentage of the gate
receipts to any contestant than that stated in the application. 38380
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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. 38382
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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. 38392
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Sec. 3781.07. There is hereby established in the department
of commerce a board of building standards consisting of ~~ten~~ eleven
members appointed by the governor with the advice and consent of
the senate. The board shall appoint a secretary who shall serve in
the unclassified civil service for a term of six years at a salary 38401
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fixed pursuant to Chapter 124. of the Revised Code. The board may 38406
employ additional staff in the classified civil service. The 38407
secretary may be removed by the board under the rules the board 38408
adopts. Terms of office shall be for four years, commencing on the 38409
fourteenth day of October and ending on the thirteenth day of 38410
October. Each member shall hold office from the date of 38411
appointment until the end of the term for which the member was 38412
appointed. Any member appointed to fill a vacancy occurring prior 38413
to the expiration of the term for which the member's predecessor 38414
was appointed shall hold office for the remainder of such term. 38415
Any member shall continue in office subsequent to the expiration 38416
date of the member's term until the member's successor takes 38417
office, or until a period of sixty days has elapsed, whichever 38418
occurs first. One of the members appointed to the board shall be 38419
an attorney at law, admitted to the bar of this state; two shall 38420
be registered architects; two shall be professional engineers, one 38421
in the field of mechanical and one in the field of structural 38422
engineering, each of whom shall be duly licensed to practice such 38423
profession in this state; one shall be a person of recognized 38424
ability, broad training, and fifteen years experience in problems 38425
and practice incidental to the construction and equipment of 38426
buildings specified in section 3781.06 of the Revised Code; one 38427
shall be a person with recognized ability and experience in the 38428
manufacture and construction of industrialized units as defined in 38429
section 3781.06 of the Revised Code; one shall be a member of the 38430
fire service with recognized ability and broad training in the 38431
field of fire protection and suppression; one shall be a person 38432
with at least ten years of experience and recognized expertise in 38433
building codes and standards and the manufacture of construction 38434
materials; ~~and~~ one shall be a general contractor with experience 38435
in residential and commercial construction; and one, chosen from a 38436
list of three names the Ohio municipal league submits to the 38437
governor, shall be the mayor of a municipal corporation in which 38438

the Ohio residential and nonresidential building codes are being 38439
enforced in the municipal corporation by a certified building 38440
department. Each member of the board, not otherwise required to 38441
take an oath of office, shall take the oath prescribed by the 38442
constitution. Each member shall receive as compensation an amount 38443
fixed pursuant to division (J) of section 124.15 of the Revised 38444
Code, and shall receive actual and necessary expenses in the 38445
performance of official duties. The amount of such expenses shall 38446
be certified by the secretary of the board and paid in the same 38447
manner as the expenses of employees of the department of commerce 38448
are paid. 38449

Sec. 3781.10. (A)(1) The board of building standards shall 38450
formulate and adopt rules governing the erection, construction, 38451
repair, alteration, and maintenance of all buildings or classes of 38452
buildings specified in section 3781.06 of the Revised Code, 38453
including land area incidental to those buildings, the 38454
construction of industrialized units, the installation of 38455
equipment, and the standards or requirements for materials used in 38456
connection with those buildings. The board shall incorporate those 38457
rules into separate residential and nonresidential building codes. 38458
The standards shall relate to the conservation of energy and the 38459
safety and sanitation of those buildings. 38460

(2) The rules governing nonresidential buildings are the 38461
lawful minimum requirements specified for those buildings and 38462
industrialized units, except that no rule other than as provided 38463
in division (C) of section 3781.108 of the Revised Code that 38464
specifies a higher requirement than is imposed by any section of 38465
the Revised Code is enforceable. The rules governing residential 38466
buildings are uniform requirements for residential buildings in 38467
any area with a building department certified to enforce the state 38468
residential building code. In no case shall any local code or 38469
regulation differ from the state residential building code unless 38470

that code or regulation addresses subject matter not addressed by 38471
the state residential building code or is adopted pursuant to 38472
section 3781.01 of the Revised Code. 38473

(3) The rules adopted pursuant to this section are complete, 38474
lawful alternatives to any requirements specified for buildings or 38475
industrialized units in any section of the Revised Code. The board 38476
shall, on its own motion or on application made under sections 38477
3781.12 and 3781.13 of the Revised Code, formulate, propose, 38478
adopt, modify, amend, or repeal the rules to the extent necessary 38479
or desirable to effectuate the purposes of sections 3781.06 to 38480
3781.18 of the Revised Code. 38481

(B) The board shall report to the general assembly proposals 38482
for amendments to existing statutes relating to the purposes 38483
declared in section 3781.06 of the Revised Code that public health 38484
and safety and the development of the arts require and shall 38485
recommend any additional legislation to assist in carrying out 38486
fully, in statutory form, the purposes declared in that section. 38487
The board shall prepare and submit to the general assembly a 38488
summary report of the number, nature, and disposition of the 38489
petitions filed under sections 3781.13 and 3781.14 of the Revised 38490
Code. 38491

(C) On its own motion or on application made under sections 38492
3781.12 and 3781.13 of the Revised Code, and after thorough 38493
testing and evaluation, the board shall determine by rule that any 38494
particular fixture, device, material, process of manufacture, 38495
manufactured unit or component, method of manufacture, system, or 38496
method of construction complies with performance standards adopted 38497
pursuant to section 3781.11 of the Revised Code. The board shall 38498
make its determination with regard to adaptability for safe and 38499
sanitary erection, use, or construction, to that described in any 38500
section of the Revised Code, wherever the use of a fixture, 38501
device, material, method of manufacture, system, or method of 38502

construction described in that section of the Revised Code is 38503
permitted by law. The board shall amend or annul any rule or issue 38504
an authorization for the use of a new material or manufactured 38505
unit on any like application. No department, officer, board, or 38506
commission of the state other than the board of building standards 38507
or the board of building appeals shall permit the use of any 38508
fixture, device, material, method of manufacture, newly designed 38509
product, system, or method of construction at variance with what 38510
is described in any rule the board of building standards adopts or 38511
issues or that is authorized by any section of the Revised Code. 38512
Nothing in this section shall be construed as requiring approval, 38513
by rule, of plans for an industrialized unit that conforms with 38514
the rules the board of building standards adopts pursuant to 38515
section 3781.11 of the Revised Code. 38516

(D) The board shall recommend rules, codes, and standards to 38517
help carry out the purposes of section 3781.06 of the Revised Code 38518
and to help secure uniformity of state administrative rulings and 38519
local legislation and administrative action to the bureau of 38520
workers' compensation, the director of commerce, any other 38521
department, officer, board, or commission of the state, and to 38522
legislative authorities and building departments of counties, 38523
townships, and municipal corporations, and shall recommend that 38524
they audit those recommended rules, codes, and standards by any 38525
appropriate action that they are allowed pursuant to law or the 38526
constitution. 38527

(E)(1) The board shall certify municipal, township, and 38528
county building departments and the personnel of those building 38529
departments, and persons and employees of individuals, firms, or 38530
corporations as described in division (E)(7) of this section to 38531
exercise enforcement authority, to accept and approve plans and 38532
specifications, and to make inspections, pursuant to sections 38533
3781.03, 3791.04, and 4104.43 of the Revised Code. 38534

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall 38567
complete the number of hours of continuing building code education 38568
that the board requires or, for failure to do so, forfeit 38569
certification. 38570

(6) This division does not require or authorize the board to 38571
certify personnel of municipal, township, and county building 38572
departments, and persons and employees of persons, firms, or 38573
corporations as described in this section, whose responsibilities 38574
do not include the exercise of enforcement authority, the approval 38575
of plans and specifications, or making inspections under the state 38576
residential and nonresidential building codes. 38577

(7) Enforcement authority for approval of plans and 38578
specifications and enforcement authority for inspections may be 38579
exercised, and plans and specifications may be approved and 38580
inspections may be made on behalf of a municipal corporation, 38581
township, or county, by any of the following who the board of 38582
building standards certifies: 38583

(a) Officers or employees of the municipal corporation, 38584
township, or county; 38585

(b) Persons, or employees of persons, firms, or corporations, 38586
pursuant to a contract to furnish architectural ~~or~~, engineering, 38587
or other services to the municipal corporation, township, or 38588
county; 38589

(c) Officers or employees of, and persons under contract 38590
with, a municipal corporation, township, county, health district, 38591
or other political subdivision, pursuant to a contract to furnish 38592
architectural ~~or~~, engineering, or other services. 38593

(8) Municipal, township, and county building departments have 38594
jurisdiction within the meaning of sections 3781.03, 3791.04, and 38595
4104.43 of the Revised Code, only with respect to the types of 38596
buildings and subject matters for which they are certified under 38597

this section. 38598

(9) Certification shall be granted upon application by the 38599
municipal corporation, the board of township trustees, or the 38600
board of county commissioners and approval of that application by 38601
the board of building standards. The application shall set forth: 38602

(a) Whether the certification is requested for residential or 38603
nonresidential buildings, or both; 38604

(b) The number and qualifications of the staff composing the 38605
building department; 38606

(c) The names, addresses, and qualifications of persons, 38607
firms, or corporations contracting to furnish work or services 38608
pursuant to division (E)(7)(b) of this section; 38609

(d) The names of any other municipal corporation, township, 38610
county, health district, or political subdivision under contract 38611
to furnish work or services pursuant to division (E)(7) of this 38612
section; 38613

(e) The proposed budget for the operation of the building 38614
department. 38615

(10) The board of building standards shall adopt rules 38616
governing all of the following: 38617

(a) The certification of building department personnel and 38618
persons and employees of persons, firms, or corporations 38619
exercising authority pursuant to division (E)(7) of this section. 38620
The rules shall disqualify any employee of the department or 38621
person who contracts for services with the department from 38622
performing services for the department when that employee or 38623
person would have to pass upon, inspect, or otherwise exercise 38624
authority over any labor, material, or equipment the employee or 38625
person furnishes for the construction, alteration, or maintenance 38626
of a building or the preparation of working drawings or 38627

specifications for work within the jurisdictional area of the 38628
department. The department shall provide other similarly qualified 38629
personnel to enforce the residential and nonresidential building 38630
codes as they pertain to that work. 38631

(b) The minimum services to be provided by a certified 38632
building department. 38633

(11) The board of building standards may revoke or suspend 38634
certification to enforce the residential and nonresidential 38635
building codes, on petition to the board by any person affected by 38636
that enforcement or approval of plans, or by the board on its own 38637
motion. Hearings shall be held and appeals permitted on any 38638
proceedings for certification or revocation or suspension of 38639
certification in the same manner as provided in section 3781.101 38640
of the Revised Code for other proceedings of the board of building 38641
standards. 38642

(12) Upon certification, and until that authority is revoked, 38643
any county or township building department shall enforce the 38644
residential and nonresidential building codes for which it is 38645
certified without regard to limitation upon the authority of 38646
boards of county commissioners under Chapter 307. of the Revised 38647
Code or boards of township trustees under Chapter 505. of the 38648
Revised Code. 38649

(F) In addition to hearings sections 3781.06 to 3781.18 and 38650
3791.04 of the Revised Code require, the board of building 38651
standards shall make investigations and tests, and require from 38652
other state departments, officers, boards, and commissions 38653
information the board considers necessary or desirable to assist 38654
it in the discharge of any duty or the exercise of any power 38655
mentioned in this section or in sections 3781.06 to 3781.18, 38656
3791.04, and 4104.43 of the Revised Code. 38657

(G) The board shall adopt rules and establish reasonable fees 38658

for the review of all applications submitted where the applicant
applies for authority to use a new material, assembly, or product
of a manufacturing process. The fee shall bear some reasonable
relationship to the cost of the review or testing of the
materials, assembly, or products and for the notification of
approval or disapproval as provided in section 3781.12 of the
Revised Code.

(H) The residential construction advisory committee shall
provide the board with a proposal for a state residential building
code that the committee recommends pursuant to division (C)(1) of
section 4740.14 of the Revised Code. Upon receiving a
recommendation from the committee that is acceptable to the board,
the board shall adopt rules establishing that code as the state
residential building code.

(I) The board shall cooperate with the director of job and
family services when the director promulgates rules pursuant to
section 5104.05 of the Revised Code regarding safety and
sanitation in type A family day-care homes.

(J) The board shall adopt rules to implement the requirements
of section 3781.108 of the Revised Code.

Sec. 3781.102. (A) Any county or municipal building
department certified pursuant to division (E) of section 3781.10
of the Revised Code as of September 14, 1970, and that, as of that
date, was inspecting single-family, two-family, and three-family
residences, and any township building department certified
pursuant to division (E) of section 3781.10 of the Revised Code,
is hereby declared to be certified to inspect single-family,
two-family, and three-family residences containing industrialized
units, and shall inspect the buildings or classes of buildings
subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by 38689
resolution, rules establishing standards and providing for the 38690
licensing of electrical and heating, ventilating, and air 38691
conditioning contractors who are not required to hold a valid and 38692
unexpired license pursuant to Chapter 4740. of the Revised Code. 38693

Rules adopted by a board of county commissioners pursuant to 38694
this division may be enforced within the unincorporated areas of 38695
the county and within any municipal corporation where the 38696
legislative authority of the municipal corporation has contracted 38697
with the board for the enforcement of the county rules within the 38698
municipal corporation pursuant to section 307.15 of the Revised 38699
Code. The rules shall not conflict with rules adopted by the board 38700
of building standards pursuant to section 3781.10 of the Revised 38701
Code or by the department of commerce pursuant to Chapter 3703. of 38702
the Revised Code. This division does not impair or restrict the 38703
power of municipal corporations under Section 3 of Article XVIII, 38704
Ohio Constitution, to adopt rules concerning the erection, 38705
construction, repair, alteration, and maintenance of buildings and 38706
structures or of establishing standards and providing for the 38707
licensing of specialty contractors pursuant to section 715.27 of 38708
the Revised Code. 38709

A board of county commissioners, pursuant to this division, 38710
may require all electrical contractors and heating, ventilating, 38711
and air conditioning contractors, other than those who hold a 38712
valid and unexpired license issued pursuant to Chapter 4740. of 38713
the Revised Code, to successfully complete an examination, test, 38714
or demonstration of technical skills, and may impose a fee and 38715
additional requirements for a license to engage in their 38716
respective occupations within the jurisdiction of the board's 38717
rules under this division. 38718

(C) No board of county commissioners shall require any 38719
specialty contractor who holds a valid and unexpired license 38720

issued pursuant to Chapter 4740. of the Revised Code to 38721
successfully complete an examination, test, or demonstration of 38722
technical skills in order to engage in the type of contracting for 38723
which the license is held, within the unincorporated areas of the 38724
county and within any municipal corporation whose legislative 38725
authority has contracted with the board for the enforcement of 38726
county regulations within the municipal corporation, pursuant to 38727
section 307.15 of the Revised Code. 38728

(D) A board may impose a fee for registration of a specialty 38729
contractor who holds a valid and unexpired license issued pursuant 38730
to Chapter 4740. of the Revised Code before that specialty 38731
contractor may engage in the type of contracting for which the 38732
license is held within the unincorporated areas of the county and 38733
within any municipal corporation whose legislative authority has 38734
contracted with the board for the enforcement of county 38735
regulations within the municipal corporation, pursuant to section 38736
307.15 of the Revised Code, provided that the fee is the same for 38737
all specialty contractors who wish to engage in that type of 38738
contracting. If a board imposes such a fee, the board immediately 38739
shall permit a specialty contractor who presents proof of holding 38740
a valid and unexpired license and pays the required fee to engage 38741
in the type of contracting for which the license is held within 38742
the unincorporated areas of the county and within any municipal 38743
corporation whose legislative authority has contracted with the 38744
board for the enforcement of county regulations within the 38745
municipal corporation, pursuant to section 307.15 of the Revised 38746
Code. 38747

(E) The political subdivision associated with each municipal, 38748
township, and county building department the board of building 38749
standards certifies pursuant to division (E) of section 3781.10 of 38750
the Revised Code may prescribe fees to be paid by persons, 38751
political subdivisions, or any department, agency, board, 38752

commission, or institution of the state, for the acceptance and 38753
approval of plans and specifications, and for the making of 38754
inspections, pursuant to sections 3781.03 and 3791.04 of the 38755
Revised Code. 38756

(F) Each political subdivision that prescribes fees pursuant 38757
to division (E) of this section shall collect, on behalf of the 38758
board of building standards, fees equal to the following: 38759

(1) Three per cent of the fees the political subdivision 38760
collects in connection with nonresidential buildings; 38761

(2) One per cent of the fees the political subdivision 38762
collects in connection with residential buildings. 38763

(G)(1) The board shall adopt rules, in accordance with 38764
Chapter 119. of the Revised Code, specifying the manner in which 38765
the fee assessed pursuant to division (F) of this section shall be 38766
collected and remitted monthly to the board. The board shall pay 38767
the fees into the state treasury to the credit of the industrial 38768
compliance operating fund created in section 121.084 of the 38769
Revised Code. 38770

(2) All money credited to the industrial compliance operating 38771
fund under this division shall be used exclusively for the 38772
following: 38773

(a) Operating costs of the board; 38774

(b) Providing services, including educational programs, for 38775
the building departments that are certified by the board pursuant 38776
to division (E) of section 3781.10 of the Revised Code; 38777

(c) Paying the expenses of the residential construction 38778
advisory committee, including the expenses of committee members as 38779
provided in section 4740.14 of the Revised Code. 38780

(H) A board of county commissioners that adopts rules 38781
providing for the licensing of electrical and heating, 38782

ventilating, and air conditioning contractors, pursuant to 38783
division (B) of this section, may accept, for purposes of 38784
satisfying the requirements of rules adopted under that division, 38785
a valid and unexpired license issued pursuant to Chapter 4740. of 38786
the Revised Code that is held by an electrical or heating, 38787
ventilating, and air conditioning contractor, for the 38788
construction, replacement, maintenance, or repair of one-family, 38789
two-family, or three-family dwelling houses or accessory 38790
structures incidental to those dwelling houses. 38791

(I) A board of county commissioners shall not register a 38792
specialty contractor who is required to hold a license under 38793
Chapter 4740. of the Revised Code but does not hold a valid 38794
license issued under that chapter. 38795

(J) As used in this section, "specialty contractor" means a 38796
heating, ventilating, and air conditioning contractor, 38797
refrigeration contractor, electrical contractor, plumbing 38798
contractor, or hydronics contractor, as those contractors are 38799
described in Chapter 4740. of the Revised Code. 38800

Sec. 3781.191. The Ohio board of building appeals has no 38801
authority to hear any case based on the Ohio residential building 38802
code or to grant any variance to the Ohio residential building 38803
code. 38804

Sec. 3793.09. (A) There is hereby created the council on 38805
alcohol and drug addiction services which shall consist of the 38806
public officials specified in division (B) of this section, or 38807
their designees, and thirteen members appointed by the governor 38808
with the advice and consent of the senate. The members appointed 38809
by the governor shall be representatives of the following: boards 38810
of alcohol, drug addiction, and mental health services; the 38811
criminal and juvenile justice systems; and alcohol and drug 38812

addiction programs. At least four of the appointed members shall 38813
be persons who have received or are receiving alcohol or drug 38814
addiction services or are parents or other relatives of such 38815
persons; of these at least two shall be women and at least one 38816
shall be a member of a minority group. 38817

The governor shall make initial appointments to the council 38818
not later than thirty days after October 10, 1989. Of the initial 38819
appointments, six shall be for terms ending July 31, 1991, and 38820
seven shall be for terms ending July 31, 1992. Thereafter, terms 38821
of office shall be two years, with each term ending on the same 38822
day of the same month as the term it succeeds. Each member shall 38823
hold office from the date of the member's appointment until the 38824
end of the term for which the member was appointed. Members may be 38825
reappointed. Vacancies shall be filled in the same manner as 38826
original appointments. Any member appointed to fill a vacancy 38827
occurring prior to the expiration of the term for which the 38828
member's predecessor was appointed shall hold office as a member 38829
for the remainder of the term. A member shall continue in office 38830
subsequent to the expiration of the member's term until the 38831
member's successor takes office or until a period of sixty days 38832
has elapsed, whichever occurs first. 38833

(B) The directors of health, public safety, mental health, 38834
rehabilitation and correction, and youth services; the 38835
superintendents of public instruction and liquor control; the 38836
attorney general; the adjutant general; and the executive director 38837
of the ~~office~~ division of criminal justice services in the 38838
department of public safety shall be voting members of the 38839
council, except that any of these officials may designate an 38840
individual to serve in the official's place as a voting member of 38841
the council. The director of alcohol and drug addiction services 38842
shall serve as a nonvoting member of the council. 38843

(C) The governor shall annually appoint a ~~chairman~~ 38844

chairperson from among the members of the council. The council 38845
shall meet quarterly and at other times the ~~chairman~~ chairperson 38846
considers necessary. In addition to other duties specified in this 38847
chapter, the council shall review the development of the 38848
comprehensive statewide plan for alcohol and drug addiction 38849
services, revisions of the plan, and other actions taken to 38850
implement the purposes of this chapter by the department of 38851
alcohol and drug addiction services and shall act as an advisory 38852
council to the director of alcohol and drug addiction services. 38853

(D) Members of the council shall serve without compensation, 38854
but shall be paid actual and necessary expenses incurred in the 38855
performance of their duties. 38856

Sec. 3901.021. (A) Three-fourths of all appointment and other 38857
fees collected under section 3905.10, ~~and~~ division (B) of section 38858
3905.20, ~~and division (A)(6) of section 3905.40~~ of the Revised 38859
Code shall be paid into the state treasury to the credit of the 38860
department of insurance operating fund, which is hereby created. 38861
The remaining one-fourth shall be credited to the general revenue 38862
fund. All other revenues collected by the superintendent of 38863
insurance, such as registration fees for sponsored seminars or 38864
conferences and grants from private entities, shall be paid into 38865
the state treasury to the credit of the department of insurance 38866
operating fund. 38867

(B) Seven-tenths of all fees collected under divisions 38868
(A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code 38869
shall be paid into the state treasury to the credit of the 38870
department of insurance operating fund. The remaining three-tenths 38871
shall be credited to the general revenue fund. 38872

(C) All operating expenses of the department of insurance 38873
except those expenses defined under section 3901.07 of the Revised 38874
Code shall be paid from the department of insurance operating 38875

fund.	38876
Sec. 3901.17. (A) As used in this section:	38877
(1) <u>"Captive insurer" has the meaning defined in section 3905.36 of the Revised Code.</u>	38878 38879
(2) "Insurer" includes, but is not limited to, any person that is an affiliate of or affiliated with the insurer, as defined in division (A) of section 3901.32 of the Revised Code, and any person that is a subsidiary of the insurer as defined in division (F) of section 3901.32 of the Revised Code.	38880 38881 38882 38883 38884
(2) (3) "Laws of this state relating to insurance" has the meaning defined in division (A)(1) of section 3901.04 of the Revised Code.	38885 38886 38887
(3) (4) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.	38888 38889
(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States:	38890 38891 38892 38893 38894 38895 38896 38897
(1) Issuing or delivering contracts of insurance to residents of this state or to corporations authorized to do business therein;	38898 38899 38900
(2) Making or proposing to make any insurance contracts;	38901
(3) Soliciting, taking, or receiving any application for insurance;	38902 38903
(4) Receiving or collecting any premium, commission,	38904

membership fee, assessment, dues, or other consideration for any 38905
insurance contract or any part thereof; 38906

(5) Disseminating information as to coverage or rates, 38907
forwarding applications, inspecting risks, fixing rates, 38908
investigating or adjusting claims or losses, transacting any 38909
matters subsequent to effecting a contract of insurance and 38910
arising out of it; 38911

(6) Doing any kind of business recognized as constituting the 38912
doing of an insurance business under Title XXXIX of the Revised 38913
Code or subject to regulation by the superintendent of insurance 38914
under the laws of this state relating to insurance. 38915

Any such act shall be considered to be the doing of an 38916
insurance business in this state by such insurer, person, or agent 38917
and shall be its agreement that service of any lawful subpoena, 38918
notice, order, or process is of the same legal force and validity 38919
as personal service of the subpoena, notice, order, or process in 38920
this state upon the insurer, person, or agent. 38921

(C) Service of process in judicial proceedings shall be as 38922
provided by the Rules of Civil Procedure. Service in or out of 38923
this state of notice, orders, or subpoenas in administrative 38924
proceedings before the superintendent shall be as provided in 38925
section 3901.04 of the Revised Code. 38926

(D) Service of any notice, order, subpoena, or process in any 38927
such action, suit, or proceeding shall, in addition to the manner 38928
provided in division (C) of this section, be valid if served upon 38929
any person within this state who, in this state on behalf of such 38930
insurer, person, or agent is or has been: 38931

(1) Soliciting, procuring, effecting, or negotiating for 38932
insurance; 38933

(2) Making, issuing, or delivering any contract of insurance; 38934

(3) Collecting or receiving any premium, membership fees, 38935
assessment, dues, or other consideration for insurance; 38936

(4) Disseminating information as to coverage or rates, 38937
forwarding applications, inspecting risks, fixing rates, 38938
investigating or adjusting claims or losses, or transacting any 38939
matters subsequent to effecting a contract of insurance and 38940
arising out of it. 38941

(E) Nothing in this section shall limit or abridge the right 38942
to serve any subpoena, order, process, notice, or demand upon any 38943
insurer, person, or agent in any other manner permitted by law. 38944

(F) Every person investigating or adjusting any loss or claim 38945
under a policy of insurance not excepted under division (I) of 38946
this section and issued by any such insurer and covering a subject 38947
of insurance that was resident, located, or to be performed in 38948
this state at the time of issuance shall immediately report the 38949
policy to the superintendent. 38950

(G) Each such insurer that does any of the acts set forth in 38951
division (B) of this section in this state by mail or otherwise 38952
shall be subject to a tax of five per cent on the gross premiums, 38953
membership fees, assessments, dues, and other considerations 38954
received on all contracts of insurance covering subjects of 38955
insurance resident, located, or to be performed within this state. 38956
Such insurer shall annually, on or before the first day of July, 38957
pay such tax to the treasurer of state, as calculated on a form 38958
prescribed by the treasurer of state. If the tax is not paid when 38959
due, the tax shall be increased by a penalty of twenty-five per 38960
cent. An interest charge computed as set forth in section 5725.221 38961
of the Revised Code shall be made on the entire sum of the tax 38962
plus penalty, which interest shall be computed from the date the 38963
tax is due until it is paid. The treasurer of state shall 38964
determine and report all claims for penalties and interest 38965

accruing under this section to the attorney general for 38966
collection. 38967

For purposes of this division, payment is considered made 38968
when it is received by the treasurer of state, irrespective of any 38969
United States postal service marking or other stamp or mark 38970
indicating the date on which the payment may have been mailed. 38971

(H) No contract of insurance effected in this state by mail 38972
or otherwise by any such insurer is enforceable by the insurer. 38973

(I) This section does not apply to: 38974

(1) Insurance obtained pursuant to sections 3905.30 to 38975
3905.36 of the Revised Code; 38976

(2) The transaction of reinsurance by insurers; 38977

(3) Transactions in this state involving a policy solicited, 38978
written, and delivered outside this state covering only subjects 38979
of insurance not resident, located, or to be performed in this 38980
state at the time of issuance, provided such transactions are 38981
subsequent to the issuance of the policy; 38982

(4) Transactions in this state involving a policy of group 38983
life or group accident and sickness insurance solicited, written, 38984
and delivered outside this state; 38985

(5) Transactions involving contracts of insurance 38986
independently procured through negotiations occurring entirely 38987
outside this state which are reported to the superintendent and 38988
with respect to which the tax provided by section 3905.36 of the 38989
Revised Code is paid; 38990

(6) An attorney at law acting on behalf of the attorney's 38991
clients in the adjustment of claims or losses; 38992

(7) ~~Any~~ Except as provided in division (G) of this section, 38993
any insurance company underwriter issuing contracts of insurance 38994
to employer insureds or contracts of insurance issued to an 38995

employer insured. For purposes of this section, an "employer
insured" is an insured to whom all of the following apply:

(a) The insured 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
(I)(7)(a) of this section, a "regularly and continuously qualified
insurance consultant" does not include any person licensed under
Chapter 3905. of the Revised Code.

(b) The insured's aggregate annual premiums for insurance on
all risks total at least twenty-five thousand dollars; and

(c) The insured has at least twenty-five full-time employees.

(8) Ocean marine insurance;

(9) Transactions involving policies issued by a captive
insurer.

~~Sec. 3901.78. Upon the filing of each of its annual
statements, or as soon thereafter as practicable, the
superintendent of insurance shall issue to each insurance company
or association authorized to do business in this state but not
incorporated under the laws of this state a certificate of
compliance, an original of which must be published in accordance
with section 3901.781 of the Revised Code in every county where
the insurance company or association has an agency. Upon request
or in any other circumstance that the superintendent of insurance
determines to be appropriate, the superintendent may issue ~~other~~
certificates of compliance, ~~which certificates are not subject to~~
~~section 3901.781 of the Revised Code,~~ to insurance companies and
associations authorized to do business in this state. ~~Certificates~~
~~of compliance either must, which shall~~ be on either forms
established by the national association of insurance commissioners~~

or on such other forms as the superintendent may prescribe. 39026

Sec. 3903.14. (A) The superintendent of insurance as 39027
rehabilitator may appoint one or more special deputies, who shall 39028
have all the powers and responsibilities of the rehabilitator 39029
granted under this section, and the superintendent may employ such 39030
clerks and assistants as considered necessary. The compensation of 39031
the special deputies, clerks, and assistants and all expenses of 39032
taking possession of the insurer and of conducting the proceedings 39033
shall be fixed by the superintendent, with the approval of the 39034
court and shall be paid out of the funds or assets of the insurer. 39035
The persons appointed under this section shall serve at the 39036
pleasure of the superintendent. In the event that the property of 39037
the insurer does not contain sufficient cash or liquid assets to 39038
defray the costs incurred, the superintendent may advance the 39039
costs so incurred out of any appropriation for the maintenance of 39040
the department of insurance. Any amounts so advanced for expenses 39041
of administration shall be repaid to the superintendent for the 39042
use of the department out of the first available money of the 39043
insurer. 39044

(B) The rehabilitator may take such action as ~~he~~ the 39045
rehabilitator considers necessary or appropriate to reform and 39046
revitalize the insurer. ~~He~~ The rehabilitator shall have all the 39047
powers of the directors, officers, and managers, whose authority 39048
shall be suspended, except as they are redelegated by the 39049
rehabilitator. ~~He~~ The rehabilitator shall have full power to 39050
direct and manage, to hire and discharge employees subject to any 39051
contract rights they may have, and to deal with the property and 39052
business of the insurer. 39053

(C) If it appears to the rehabilitator that there has been 39054
criminal or tortious conduct, or breach of any contractual or 39055
fiduciary obligation detrimental to the insurer by any officer, 39056

manager, agent, director, trustee, broker, employee, or other 39057
person, ~~he~~ the rehabilitator may pursue all appropriate legal 39058
remedies on behalf of the insurer. 39059

(D) If the rehabilitator determines that reorganization, 39060
consolidation, conversion, reinsurance, merger, or other 39061
transformation of the insurer is appropriate, ~~he~~ the rehabilitator 39062
shall prepare a plan to effect such changes. Upon application of 39063
the rehabilitator for approval of the plan, and after such notice 39064
and hearings as the court may prescribe, the court may either 39065
approve or disapprove the plan proposed, or may modify it and 39066
approve it as modified. Any plan approved under this section shall 39067
be, in the judgment of the court, fair and equitable to all 39068
parties concerned. If the plan is approved, the rehabilitator 39069
shall carry out the plan. In the case of a life insurer, the plan 39070
proposed may include the imposition of liens upon the policies of 39071
the company, if all rights of shareholders are first relinquished. 39072
A plan for a life insurer may also propose imposition of a 39073
moratorium upon loan and cash surrender rights under policies, for 39074
such period and to such an extent as may be necessary. 39075

(E) In the case of a medicaid health insuring corporation 39076
that has posted a bond or deposited securities in accordance with 39077
section 1751.271 of the Revised Code, the plan proposed under 39078
division (D) of this section may include the use of the proceeds 39079
of the bond or securities to first pay the claims of contracted 39080
providers for covered health care services provided to medicaid 39081
recipients, then next to pay other claimants with any remaining 39082
funds, consistent with the priorities set forth in sections 39083
3903.421 and 3903.42 of the Revised Code. 39084

(F) The rehabilitator shall have the power under sections 39085
3903.26 and 3903.27 of the Revised Code to avoid fraudulent 39086
transfers. 39087

<u>(G) As used in this section:</u>	39088
<u>(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.</u>	39089 39090 39091
<u>(2) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.</u>	39092 39093 39094
Sec. 3903.42. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:	39095 39096 39097 39098 39099 39100 39101
(A) Class 1. The costs and expenses of administration, including but not limited to the following:	39102 39103
(1) The actual and necessary costs of preserving or recovering the assets of the insurer;	39104 39105
(2) Compensation for all services rendered in the liquidation;	39106 39107
(3) Any necessary filing fees;	39108
(4) The fees and mileage payable to witnesses;	39109
(5) Reasonable attorney's fees;	39110
(6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.	39111 39112
(B) Class 2. All claims under policies for losses incurred, including third party claims, <u>all claims against a health insuring corporation by the corporation's contracted providers,</u> all claims against the insurer for liability for bodily injury or for injury	39113 39114 39115 39116

to or destruction of tangible property that are not under 39117
policies, and all claims of a guaranty association or foreign 39118
guaranty association. All claims under life insurance and annuity 39119
policies, whether for death proceeds, annuity proceeds, or 39120
investment values, shall be treated as loss claims. That portion 39121
of any loss, indemnification for which is provided by other 39122
benefits or advantages recovered by the claimant, shall not be 39123
included in this class, other than benefits or advantages 39124
recovered or recoverable in discharge of familial obligations of 39125
support or by way of succession at death or as proceeds of life 39126
insurance, or as gratuities. No payment by an employer to an 39127
employee shall be treated as a gratuity. Claims under 39128
nonassessable policies for unearned premium or other premium 39129
refunds. 39130

(C) Class 3. Claims of the federal government. 39131

(D) Class 4. Debts due to employees for services performed to 39132
the extent that they do not exceed one thousand dollars and 39133
represent payment for services performed within one year before 39134
the filing of the complaint for liquidation. Officers and 39135
directors shall not be entitled to the benefit of this priority. 39136
Such priority shall be in lieu of any other similar priority that 39137
may be authorized by law as to wages or compensation of employees. 39138

(E) Class 5. Claims of general creditors. 39139

(F) Class 6. Claims of any state or local government. Claims, 39140
including those of any state or local governmental body for a 39141
penalty or forfeiture, shall be allowed in this class only to the 39142
extent of the pecuniary loss sustained from the act, transaction, 39143
or proceeding out of which the penalty or forfeiture arose, with 39144
reasonable and actual costs occasioned thereby. The remainder of 39145
such claims shall be postponed to the class of claims under 39146
division (I) of this section. 39147

(G) Class 7. Claims filed late or any other claims other than 39148
claims under divisions (H) and (I) of this section. 39149

(H) Class 8. Surplus or contribution notes, or similar 39150
obligations, and premium refunds on assessable policies. Payments 39151
to members of domestic mutual insurance companies shall be limited 39152
in accordance with law. 39153

(I) Class 9. The claims of shareholders or other owners. 39154

If any provision of this section or the application of any 39155
provision of this section to any person or circumstance is held 39156
invalid, the invalidity does not affect other provisions or 39157
applications of this section, and to this end the provisions are 39158
severable. 39159

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the 39160
Revised Code, both of the following apply to medicaid health 39161
insuring corporation performance bonds and securities: 39162

(1) Proceeds from the bond issued or securities held pursuant 39163
to section 1751.271 of the Revised Code that have been paid to or 39164
deposited with the department of insurance shall be considered 39165
special deposits for purposes of satisfying claims of contracted 39166
providers for covered health care services provided to medicaid 39167
recipients; 39168

(2) Contracted providers that have claims against a health 39169
insuring corporation for covered health care services provided to 39170
medicaid recipients shall be given first priority against the 39171
proceeds of the bond or securities held pursuant to section 39172
1751.27 of the Revised Code, to the exclusion of other creditors, 39173
except as provided for in this section. 39174

(B) If the amount of the proceeds of the bond or securities 39175
are not sufficient to satisfy all of the allowed claims of 39176
contracted providers for covered health care services provided to 39177

medicaid recipients, payment shall proceed as follows: 39178

(1) Contracted providers shall share in the proceeds of the 39179
bond or securities pro rata based on the allowed amount of the 39180
providers' claims against the health insuring corporation for 39181
covered health care services provided to medicaid recipients; 39182

(2) After payments are made under division (B)(1) of this 39183
section, the net unpaid balance of the claims of contracted 39184
providers shall be allowed for payment from the general assets of 39185
the estate in accordance with the priorities set forth in section 39186
3903.42 of the Revised Code. 39187

(C) If the amount of the proceeds of the bond or securities 39188
exceeds the allowed claims of contracted providers for covered 39189
health care services provided to medicaid recipients, the excess 39190
amount shall be considered a general asset of the health insuring 39191
corporation's estate to be distributed to other claimants in 39192
accordance with the priorities set forth in section 3903.42 of the 39193
Revised Code. 39194

(D) As used in this section: 39195

(1) "Contracted provider" means a provider with a contract 39196
with a medicaid health insuring corporation to provide covered 39197
health care services to medicaid recipients. 39198

(2) "Medicaid recipient" means a person eligible for 39199
assistance under the medicaid program operated pursuant to Chapter 39200
5111. of the Revised Code. 39201

Sec. 3905.04. (A) Except as otherwise provided in section 39202
3905.041 of the Revised Code, a resident individual applying for 39203
an insurance agent license for any of the lines of authority 39204
described in division (B) of this section shall take a written 39205
examination. The examination shall test the knowledge of the 39206
individual with respect to the lines of authority for which 39207

application is made, the duties and responsibilities of an 39208
insurance agent, and the insurance laws of this state. Before 39209
admission to the examination, each individual shall pay the 39210
nonrefundable fee required under division ~~(D)~~(C) of section 39211
3905.40 of the Revised Code. 39212

(B) The examination described in division (A) of this section 39213
shall be required for the following lines of authority: 39214

(1) Any of the lines of authority set forth in divisions 39215
(B)(1) to (6) of section 3905.06 of the Revised Code; 39216

(2) Title insurance; 39217

(3) Surety bail bonds as provided in sections 3905.83 to 39218
3905.95 of the Revised Code; 39219

(4) Any other line of authority designated by the 39220
superintendent of insurance. 39221

(C) An individual shall not be permitted to take the 39222
examination described in division (A) of this section unless one 39223
or both of the following apply: 39224

(1) The individual has earned a bachelor's or associate's 39225
degree in insurance from an accredited institution. 39226

(2) The individual has completed, for each line of authority 39227
for which the individual has applied, twenty hours of study in a 39228
program of insurance education approved by the superintendent, in 39229
consultation with the insurance agent education advisory council, 39230
under criteria established by the superintendent. Division (C) of 39231
this section does not apply with respect to title insurance or any 39232
other line of authority designated by the superintendent. 39233

(D) An individual who fails to appear for an examination as 39234
scheduled, or fails to pass an examination, may reapply for the 39235
examination if the individual pays the required fee and submits 39236
any necessary forms prior to being rescheduled for the 39237

examination. 39238

(E)(1) The superintendent may, in accordance with Chapter 39239
119. of the Revised Code, adopt any rule necessary for the 39240
implementation of this section. 39241

(2) The superintendent may make any necessary arrangements, 39242
including contracting with an outside testing service, for the 39243
administration of the examinations and the collection of the fees 39244
required by this section. 39245

Sec. 3905.36. ~~Every~~ (A) Except as provided in divisions (B) 39246
and (C) of this section, every insured association, company, 39247
corporation, or other person that enters, directly or indirectly, 39248
into any agreements with any insurance company, association, 39249
individual, firm, underwriter, or Lloyd, not authorized to do 39250
business in this state, whereby the insured shall procure, 39251
continue, or renew contracts of insurance covering subjects of 39252
insurance resident, located, or to be performed within this state, 39253
with such unauthorized insurance company, association, individual, 39254
firm, underwriter, or Lloyd, for which insurance there is a gross 39255
premium, membership fee, assessment, dues, or other consideration 39256
charged or collected, shall annually, on or before the 39257
thirty-first day of January, return to the superintendent of 39258
insurance a statement under oath showing the name and address of 39259
the insured, name and address of the insurer, subject of the 39260
insurance, general description of the coverage, and amount of 39261
gross premium, fee, assessment, dues, or other consideration for 39262
such insurance for the preceding twelve-month period and shall at 39263
the same time pay to the treasurer of state a tax of five per cent 39264
of such gross premium, fee, assessment, dues, or other 39265
consideration, after a deduction for return premium, if any, as 39266
calculated on a form prescribed by the treasurer of state. All 39267
taxes collected under this section by the treasurer of state shall 39268

be paid into the general revenue fund. If the tax is not paid when 39269
due, the tax shall be increased by a penalty of twenty-five per 39270
cent. An interest charge computed as set forth in section 5725.221 39271
of the Revised Code shall be made on the entire sum of the tax 39272
plus penalty, which interest shall be computed from the date the 39273
tax is due until it is paid. For purposes of this section, payment 39274
is considered made when it is received by the treasurer of state, 39275
irrespective of any United States postal service marking or other 39276
stamp or mark indicating the date on which the payment may have 39277
been mailed. ~~This~~ 39278

(B) ~~This~~ section does not apply to: 39279

~~(A) Insurance obtained pursuant to sections 3905.30 to 39280
3905.35 of the Revised Code;~~ 39281

~~(B)(1) Transactions in this state involving a policy 39282
solicited, written, and delivered outside this state covering only 39283
subjects of insurance not resident, located, or to be performed in 39284
this state at the time of issuance, provided such transactions are 39285
subsequent to the issuance of the policy;~~ 39286

~~(C)(2) Attorneys-at-law acting on behalf of their clients in 39287
the adjustment of claims or losses;~~ 39288

~~(D) Any insurance company underwriter issuing contracts of 39289
insurance to employer insureds or contracts of insurance issued to 39290
an employer insured. For purposes of this section an "employer 39291
insured" is an insured;~~ 39292

~~(1) Who procures the insurance of any risk or risks by use of 39293
the services of a full time employee acting as an insurance 39294
manager or buyer or the services of a regularly and continuously 39295
qualified insurance consultant. As used in division (D)(1) of this 39296
section, a "regularly and continuously qualified insurance 39297
consultant" does not include any person licensed under Chapter 39298
3905. of the Revised Code.~~ 39299

~~(2) Whose aggregate annual premiums for insurance on all risks total at least twenty five thousand dollars; and~~ 39300
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~~(3) Who has at least twenty five full time employees.~~ 39302

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following: 39303
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(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent individuals and organizations and their affiliates; 39306
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(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members; 39310
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(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their states of domicile and operated in a manner so as to self-insure risks of their owners and insureds. 39314
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~~Each~~ In transactions that are subject to sections 3905.30 to 3905.35 of the Revised Code, each person licensed under section 39318
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3905.30 of the Revised Code shall pay to the treasurer of state, 39320
on or before the thirty-first day of January of each year, five 39321
per cent of the balance of the gross premiums charged for 39322
insurance placed or procured under the license after a deduction 39323
for return premiums, as reported on a form prescribed by the 39324
treasurer of state. The tax shall be collected from the insured by 39325
the surplus line broker who placed or procured the policy of 39326
insurance at the time the policy is delivered to the insured. No 39327
license issued under section 3905.30 of the Revised Code shall be 39328
renewed until payment is made. If the tax is not paid when due, 39329
the tax shall be increased by a penalty of twenty-five per cent. 39330

An interest charge computed as set forth in section 5725.221 of 39331
the Revised Code shall be made on the entire sum of the tax plus 39332
penalty, which interest shall be computed from the date the tax is 39333
due until it is paid. For purposes of this section, payment is 39334
considered made when it is received by the treasurer of state, 39335
irrespective of any United States postal service marking or other 39336
stamp or mark indicating the date on which the payment may have 39337
been mailed. 39338

Sec. 3905.40. There shall be paid to the superintendent of 39339
insurance the following fees: 39340

(A) Each insurance company doing business in this state shall 39341
pay: 39342

(1) For filing a copy of its charter or deed of settlement, 39343
two hundred fifty dollars; 39344

(2) For filing each statement, ~~twenty-five~~ one hundred 39345
seventy-five dollars; 39346

(3) For each certificate of authority or license, one hundred 39347
seventy-five, and for each certified copy thereof, five dollars; 39348

(4) For each copy of a paper filed in the superintendent's 39349
office, twenty cents per page; 39350

(5) For issuing certificates of deposits or certified copies 39351
thereof, five dollars for the first certificate or copy and one 39352
dollar for each additional certificate or copy; 39353

(6) For issuing certificates of compliance or certified 39354
copies thereof, ~~twenty~~ sixty dollars; 39355

(7) For affixing the seal of office and certifying documents, 39356
other than those enumerated herein, two dollars. 39357

(B) Each domestic life insurance company doing business in 39358
this state shall pay for annual valuation of its policies, one 39359

cent on every one thousand dollars of insurance. 39360

~~(C) Each foreign insurance company doing business in this 39361
state shall pay for making and forwarding annually, semiannually, 39362
and quarterly the interest checks and coupons accruing upon bonds 39363
and securities deposited, fifty dollars each year on each one 39364
hundred thousand dollars deposited. 39365~~

~~(D)~~ Each applicant for licensure as an insurance agent shall 39366
pay ten dollars before admission to any examination required by 39367
the superintendent. Such fee shall not be paid by the appointing 39368
insurance company. 39369

~~(E)~~(D) Each domestic mutual life insurance company shall pay 39370
for verifying that any amendment to its articles of incorporation 39371
was regularly adopted, two hundred fifty dollars with each 39372
application for verification. Any such amendment shall be 39373
considered to have been regularly adopted when approved by the 39374
affirmative vote of two-thirds of the policyholders present in 39375
person or by proxy at any annual meeting of policyholders or at a 39376
special meeting of policyholders called for that purpose. 39377

Sec. 3923.27. No policy of sickness and accident insurance 39378
delivered, issued for delivery, or renewed in this state after ~~the~~ 39379
~~effective date of this section~~ August 26, 1976, including both 39380
individual and group policies, that provides hospitalization 39381
coverage for mental illness shall exclude such coverage for the 39382
reason that the insured is hospitalized in an institution or 39383
facility receiving tax support from the state, any municipal 39384
corporation, county, or joint county board, whether such 39385
institution or facility is deemed charitable or otherwise, 39386
provided the institution or facility or portion thereof is fully 39387
accredited by the joint commission on accreditation of hospitals 39388
or certified under Titles XVIII and XIX of the "Social Security 39389
Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The 39390

insurance coverage shall provide payment amounting to the lesser 39391
of either the full amount of the statutory charge for the cost of 39392
the services pursuant to ~~division (B)(8) of section 5121.04~~ 39393
section 5121.33 of the Revised Code or the benefits payable for 39394
the services under the applicable insurance policy. Insurance 39395
benefits for the coverage shall be paid so long as patients and 39396
their liable relatives retain their statutory liability pursuant 39397
to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 39398
of the Revised Code. Only that portion or per cent of the benefits 39399
shall be payable that has been assigned, or ordered to be paid, to 39400
the state or other appropriate provider for services rendered by 39401
the institution or facility. 39402

Sec. 4112.12. (A) There is hereby created the commission on 39403
African-American males, which shall consist of not more than 39404
forty-one members as follows: the directors or their designees of 39405
the departments of health, development, alcohol and drug addiction 39406
services, job and family services, rehabilitation and correction, 39407
mental health, and youth services; the adjutant general or the 39408
adjutant general's designee; the equal employment opportunity 39409
officer of the department of administrative services or the equal 39410
employment opportunity officer's designee; the executive director 39411
or the executive director's designee of the Ohio civil rights 39412
commission; the executive director or the executive director's 39413
designee of the office division of criminal justice services in 39414
the department of public safety; the superintendent of public 39415
instruction; the chancellor or the chancellor's designee of the 39416
Ohio board of regents; two members of the house of representatives 39417
appointed by the speaker of the house of representatives; three 39418
members of the senate appointed by the president of the senate; 39419
and not more than twenty-three members appointed by the governor. 39420
The members appointed by the governor shall include an additional 39421
member of the governor's cabinet and at least one representative 39422

of each of the following: the national association for the 39423
advancement of colored people; the urban league; an organization 39424
representing black elected officials; an organization representing 39425
black attorneys; the black religious community; the black business 39426
community; the nonminority business community; and organized 39427
labor; at least one black medical doctor, one black elected member 39428
of a school board, and one black educator; and at least two 39429
representatives of local private industry councils. The remaining 39430
members that may be appointed by the governor shall be selected 39431
from elected officials, civic and community leaders, and 39432
representatives of the employment, criminal justice, education, 39433
and health communities. 39434

(B) Terms of office shall be for three years, with each term 39435
ending on the same day of the same month as did the term that it 39436
succeeds. Each member shall hold office from the date of 39437
appointment until the end of the term for which the member was 39438
appointed. Members may be reappointed. Vacancies shall be filled 39439
in the manner provided for original appointments. Any member 39440
appointed to fill a vacancy occurring prior to the expiration date 39441
of the term for which the member's predecessor was appointed shall 39442
hold office as a member for the remainder of that term. A member 39443
shall continue in office subsequent to the expiration date of the 39444
member's term until the member's successor takes office or until a 39445
period of sixty days has elapsed, whichever occurs first. 39446

The commission annually shall elect a chairperson from among 39447
its members. 39448

(C) Members of the commission and members of subcommittees 39449
appointed under division (B) of section 4112.13 of the Revised 39450
Code shall not be compensated, but shall be reimbursed for their 39451
necessary and actual expenses incurred in the performance of their 39452
official duties. 39453

(D)(1) The Ohio civil rights commission shall serve as the 39454

commission on African-American males' fiscal agent and shall 39455
perform all of the following services: 39456

(a) Prepare and process payroll and other personnel documents 39457
that the commission on African-American males approves; 39458

(b) Maintain ledgers of accounts and reports of account 39459
balances, and monitor budgets and allotment plans in consultation 39460
with the commission on African-American males; 39461

(c) Perform other routine support services that the executive 39462
director of the Ohio civil rights commission or the executive 39463
director's designee and the Commission on African-American males 39464
or its designee consider appropriate to achieve efficiency. 39465

(2) The Ohio civil rights commission shall not approve any 39466
payroll or other personnel-related documents or any biennial 39467
budget, grant, expenditure, audit, or fiscal-related document 39468
without the advice and consent of the commission on 39469
African-American males. 39470

(3) The Ohio civil rights commission shall determine fees to 39471
be charged to the commission on African-American males for 39472
services performed under this division, which shall be in 39473
proportion to the services performed for the commission on 39474
African-American males. 39475

(4) The commission on African-American males or its designee 39476
has: 39477

(a) Sole authority to draw funds for any federal program in 39478
which the commission is authorized to participate; 39479

(b) Sole authority to expend funds from accounts for programs 39480
and any other necessary expenses the commission on 39481
African-American males may incur; 39482

(c) The duty to cooperate with the Ohio civil rights 39483
commission to ensure that the Ohio civil rights commission is 39484

fully apprised of all financial transactions. 39485

(E) The commission on African-American males shall appoint an executive director, who shall be in the unclassified civil service. The executive director shall supervise the commission's activities and report to the commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission. 39486
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The responsibilities assigned to the executive director do not relieve the members of the commission from final responsibility for the proper performance of the requirements of this division. 39493
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(F) The commission on African-American males shall: 39497

(1) Employ, promote, supervise, and remove all employees, as needed, in connection with the performance of its duties under this section; 39498
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(2) Maintain its office in Columbus; 39501

(3) Acquire facilities, equipment, and supplies necessary to house the commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses. 39502
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(4) Prepare and submit to the office of budget and management a budget for each biennium in accordance with sections 101.55 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and its staff in the discharge of any duty imposed upon the commission by law. The commission shall pay its own payroll and other operating expenses from appropriation items designated by the general assembly. The commission shall not delegate any authority to obligate funds. 39507
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(5) Establish the overall policy and management of the commission in accordance with this chapter;	39515 39516
(6) Follow all state procurement requirements;	39517
(7) Pay fees owed to the Ohio civil rights commission under division (D) of this section from the commission on African-American males' general revenue fund or from any other fund from which the operating expenses of the commission on African-American males are paid. Any amounts set aside for a fiscal year for the payment of such fees shall be used only for the services performed for the commission on African-American males by the Ohio civil rights commission in that fiscal year.	39518 39519 39520 39521 39522 39523 39524 39525
(G) The commission on African-American males may:	39526
(1) Hold sessions at any place within the state;	39527
(2) Establish, change, or abolish positions, and assign and reassign duties and responsibilities of any employee of the commission on African-American males as necessary to achieve the most efficient performance of its functions.	39528 39529 39530 39531
Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the Revised Code:	39532 39533
(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.	39534 39535 39536 39537 39538 39539 39540
(B) "Construction" means either of the following:	39541
(1) Any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than	39542 39543

fifty thousand dollars adjusted biennially by the director of
commerce pursuant to section 4115.034 of the Revised Code and
performed by other than full-time employees who have completed
their probationary periods in the classified service of a public
authority;

(2) Any reconstruction, enlargement, alteration, repair,
remodeling, renovation, or painting of any public improvement, the
total overall project cost of which is fairly estimated to be more
than fifteen thousand dollars adjusted biennially by the
administrator pursuant to section 4115.034 of the Revised Code and
performed by other than full-time employees who have completed
their probationary period in the classified civil service of a
public authority.

(C) "Public improvement" includes all buildings, roads,
streets, alleys, sewers, ditches, sewage disposal plants, water
works, and all other structures or works constructed by a public
authority of the state or any political subdivision thereof or by
any person who, pursuant to a contract with a public authority,
constructs any structure for a public authority of the state or a
political subdivision thereof. When a public authority rents or
leases a newly constructed structure within six months after
completion of such construction, all work performed on such
structure to suit it for occupancy by a public authority is a
"public improvement." "Public improvement" does not include an
improvement authorized by section 1515.08 of the Revised Code that
is constructed pursuant to a contract with a soil and water
conservation district, as defined in section 1515.01 of the
Revised Code, or performed as a result of a petition filed
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code,
wherein no less than seventy-five per cent of the project is
located on private land and no less than seventy-five per cent of
the cost of the improvement is paid for by private property owners

pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.	39576 39577
(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.	39578 39579
(E) "Prevailing wages" means the sum of the following:	39580
(1) The basic hourly rate of pay;	39581
(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;	39582 39583 39584
(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:	39585 39586 39587 39588 39589 39590
(a) Medical or hospital care or insurance to provide such;	39591
(b) Pensions on retirement or death or insurance to provide such;	39592 39593
(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;	39594 39595 39596
(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;	39597 39598
(e) Life insurance;	39599
(f) Disability and sickness insurance;	39600
(g) Accident insurance;	39601
(h) Vacation and holiday pay;	39602
(i) Defraying of costs for apprenticeship or other similar	39603

training programs which are beneficial only to the laborers and mechanics affected; 39604
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(j) Other bona fide fringe benefits. 39606

None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits. 39607
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~~(F) "Interested party," with respect to a particular public improvement, means:~~ 39611
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~~(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;~~ 39613
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~~(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;~~ 39616
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~~(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;~~ 39618
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~~(4) Any association having as members any of the persons mentioned in division (F)(1) or (2) of this section.~~ 39624
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~~(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.~~ 39626
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Sec. 4115.032. Construction on any project, facility, or project facility to which section 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code applies 39630
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is hereby deemed to be construction of a public improvement within 39633
section 4115.03 of the Revised Code. All contractors and 39634
subcontractors working on such projects, facilities, or project 39635
facilities shall be subject to and comply with sections 4115.03 to 39636
4115.16 of the Revised Code, and the director of commerce shall, 39637
~~and any interested party may,~~ bring proceedings under such 39638
sections to enforce compliance. 39639

The director shall make the determination of wages as 39640
required under sections 122.452, 122.80, 165.031, 166.02, 1551.13, 39641
1728.07, and 3706.042 of the Revised Code and shall designate one 39642
of the director's employees to act as the prevailing wage 39643
coordinator under section 4115.071 for any project, facility, or 39644
project facility for which a coordinator has not been designated 39645
by any public authority. 39646

Sec. 4115.071. (A) Each contracting public authority that 39647
enters into a contract other than a contract for printing, 39648
binding, and related services, whose contractor and subcontractors 39649
are subject to sections 4115.03 to 4115.16 of the Revised Code 39650
shall, no later than ten days before the first payment of wages is 39651
payable to any employee of any contractor or subcontractor, 39652
designate and appoint one of its own employees to serve as the 39653
prevailing wage coordinator during the life of the contract. The 39654
duties of the coordinator shall include: 39655

(1) Setting up and maintaining, available for public 39656
inspection including inspection by ~~interested parties or~~ affected 39657
employees, files of payroll reports and affidavits submitted by 39658
contractors and subcontractors pursuant to sections 4115.03 to 39659
4115.16 of the Revised Code; 39660

(2) Ascertaining from each contractor or subcontractor, at 39661
the beginning of performance under the contract, the dates during 39662
its life when payments of wages to employees are to be made; 39663

(3) Receiving from each contractor or subcontractor, a copy 39664
of the contractor's or subcontractor's complete payroll for each 39665
date exhibiting for each employee paid any wages, the employee's 39666
name, current address, social security number, number of hours 39667
worked each day during the pay period and the total for each week, 39668
the employee's hourly rate of pay, the employee's job 39669
classification, fringe payments, and deductions from the 39670
employee's wages; 39671

(4) Establishing and following procedures to monitor the 39672
compliance by each contractor and subcontractor with the 39673
requirement imposed by this section for timely filing of copies of 39674
payroll records; 39675

(5) Receiving from each contractor or subcontractor upon 39676
completion of the public improvement and prior to final payment 39677
therefor the affidavit required by section 4115.07 of the Revised 39678
Code; 39679

(6) Reporting any delinquency in the filing of the certified 39680
copy of the payroll and the affidavit to the chief officer of the 39681
contracting public authority and the director of commerce. 39682

(B) Any contracting public authority having a permanent 39683
employee with the title, powers, and functions described in 39684
division (A) of this section for the prevailing wage coordinator 39685
need not separately designate and appoint an employee for each 39686
public work contract entered into by the contracting public 39687
authority. 39688

(C) Every contractor and subcontractor who is subject to 39689
sections 4115.03 to 4115.16 of the Revised Code shall, upon 39690
beginning performance under the contractor's or subcontractor's 39691
contract with any contracting public authority, supply to the 39692
prevailing wage coordinator of the contracting public authority a 39693
schedule of the dates during the life of the contract with the 39694

authority on which the contractor or subcontractor is required to 39695
pay wages to employees. The contractor or subcontractor shall also 39696
deliver to the prevailing wage coordinator a certified copy of the 39697
contractor's or subcontractor's payroll, within two weeks after 39698
the initial pay date, and supplemental reports for each month 39699
thereafter which shall exhibit for each employee paid any wages, 39700
the employee's name, current address, social security number, 39701
number of hours worked during each day of the pay periods covered 39702
and the total for each week, the employee's hourly rate of pay, 39703
the employee's job classification, fringe payments, and deductions 39704
from the employee's wages. If the life of the contract is expected 39705
to be no more than four months from the beginning of performance 39706
by the contractor or subcontractor, such supplemental reports 39707
shall be filed each week after the initial report. The 39708
certification of each payroll shall be executed by the contractor, 39709
subcontractor, or duly appointed agent thereof and shall recite 39710
that the payroll is correct and complete and that the wage rates 39711
shown are not less than those required by the contract. 39712

(D) If it is found that a public authority or prevailing wage 39713
coordinator has not complied with this section, the director shall 39714
give notice thereof in writing to the public authority or 39715
prevailing wage coordinator. Sufficient time shall be allowed for 39716
compliance as the director deems necessary. At the expiration of 39717
the time prescribed in the notice, the director shall, in writing, 39718
inform the attorney general of the fact that notice has been given 39719
and that the public authority or prevailing wage coordinator to 39720
whom it was directed has not complied with it. On receipt thereof, 39721
the attorney general shall bring suit in the name of the state in 39722
the court of common pleas of the county in which the public 39723
authority is located, to require the public authority or 39724
prevailing wage coordinator to comply with this section. 39725

Sec. ~~4115.21~~ 4115.16. A person who files a complaint with the 39726
director of commerce alleging a violation of sections 4115.03 to 39727
4115.16 of the Revised Code shall file the complaint within two 39728
years after the completion of the public improvement upon which 39729
the violation is alleged to have occurred or be barred from 39730
further administrative action under this chapter. 39731

Sec. 4115.32. (A) ~~There~~ Subject to section 4115.36 of the 39732
Revised Code, there is hereby created the state committee for the 39733
purchase of products and services provided by persons with severe 39734
disabilities. The committee shall be composed ex officio of the 39735
following persons, or their designees: 39736

(1) The directors of administrative services, mental health, 39737
mental retardation and developmental disabilities, transportation, 39738
natural resources, and commerce; 39739

(2) The administrators of the rehabilitation services 39740
commission and the bureau of workers' compensation; 39741

(3) The secretary of state; 39742

(4) One representative of a purchasing department of a 39743
political subdivision who is designated by the governor. 39744

The governor shall appoint two representatives of a qualified 39745
nonprofit agency for persons with severe disabilities, and a 39746
person with a severe disability to the committee. 39747

(B) Within thirty days after September 29, 1995, the governor 39748
shall appoint the representatives of a qualified nonprofit agency 39749
for persons with severe disabilities to the committee for a term 39750
ending August 31, 1996. Thereafter, terms for such representatives 39751
are for three years, each term ending on the same day of the same 39752
month of the year as did the term that it succeeds. Each committee 39753
member shall serve from the date of the member's appointment until 39754
the end of the term for which the member was appointed. Vacancies 39755

shall be filled in the same manner provided for original 39756
appointments. Any member appointed to fill a vacancy occurring 39757
prior to the expiration date of the term for which the member's 39758
predecessor was appointed shall serve as a member for the 39759
remainder of that term. A member shall serve subsequent to the 39760
expiration of the member's term and shall continue to serve until 39761
the member's successor takes office. 39762

(C) Members of the committee shall serve without 39763
compensation. Except as otherwise provided in divisions (C)(1) and 39764
(2) of this section, members shall be reimbursed for actual and 39765
necessary expenses, including travel expenses, incurred while away 39766
from their homes or regular places of business and incurred while 39767
performing services for the committee. 39768

(1) The members listed in divisions (A)(1) to (3) of this 39769
section, or their designees, shall not be reimbursed for any 39770
expenses. 39771

(2) No member of the committee who is entitled to receive 39772
reimbursement for the performance of services for the committee 39773
from another agency or entity shall receive reimbursement from the 39774
committee. 39775

(D) The committee shall elect from among its members a 39776
chairperson. The committee may request from any agency of the 39777
state, political subdivision, or instrumentality of the state any 39778
information necessary to enable it to carry out the intent of 39779
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 39780
the committee, the agency, subdivision, or instrumentality shall 39781
furnish the information to the chairperson of the committee. 39782

(E) The committee shall not later than one hundred eighty 39783
days following the close of each fiscal year transmit to the 39784
governor, the general assembly, and each qualified nonprofit 39785
agency for persons with severe disabilities a report that includes 39786

the names of the committee members serving during the preceding 39787
fiscal year, the dates of committee meetings in that year, and any 39788
recommendations for changes in sections 4115.31 to 4115.35 of the 39789
Revised Code that the committee determines are necessary. 39790

(F) The director of ~~mental retardation and developmental~~ 39791
~~disabilities~~ administrative services shall designate a subordinate 39792
to act as executive director of the committee and shall furnish 39793
other staff and clerical assistance, office space, and supplies 39794
required by the committee. 39795

Sec. 4115.34. (A) ~~If~~ Except as provided in section 4115.36 of 39796
the Revised Code, if any state agency, political subdivision, or 39797
instrumentality of the state intends to procure any product or 39798
service, it shall determine whether the product or service is on 39799
the procurement list published pursuant to section 4115.33 of the 39800
Revised Code; and it shall, in accordance with rules of the state 39801
committee for the purchase of products and services provided by 39802
persons with severe disabilities, procure such product or service 39803
at the fair market price established by the committee from a 39804
qualified nonprofit agency for persons with severe disabilities, 39805
if the product or service is on the procurement list and is 39806
available within the period required by that agency, subdivision, 39807
or instrumentality, notwithstanding any law requiring the purchase 39808
of products and services on a competitive bid basis. Sections 39809
4115.31 to 4115.35 of the Revised Code do not apply if the 39810
products or services are available for procurement from any state 39811
agency, political subdivision, or instrumentality of the state and 39812
procurement from such agency, subdivision, or instrumentality is 39813
required under any law in effect on August 13, 1976. 39814

(B) The committee and any state agency, political 39815
subdivision, or instrumentality of the state may enter into 39816
contractual agreements, cooperative working relationships, or 39817

other arrangements determined necessary for effective coordination 39818
and efficient realization of the objectives of sections 4115.31 to 39819
4115.35 of the Revised Code and any other law requiring 39820
procurement of products or services from any state agency, 39821
political subdivision, or instrumentality of the state. 39822

(C) Notwithstanding any other section of the Revised Code, or 39823
any appropriations act, that may require a state agency, political 39824
subdivision, or instrumentality of the state to purchase supplies, 39825
services, or materials by means of a competitive bid procedure, 39826
state agencies, political subdivisions, or instrumentalities of 39827
the state need not utilize the required bidding procedures if the 39828
supplies, services, or materials are to be purchased from a 39829
qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 39830
of the Revised Code. 39831

Sec. 4115.36. Sections 4115.31 to 4115.35 of the Revised Code 39832
have no effect after the director of administrative services 39833
abolishes the state committee for the purchase of products and 39834
services provided by persons with severe disabilities. Upon 39835
abolishment of the committee, sections 125.60 to 125.6012 of the 39836
Revised Code shall govern the procurement of products and services 39837
provided by persons with work-limiting disabilities from qualified 39838
nonprofit agencies. 39839

Sec. 4117.10. (A) An agreement between a public employer and 39840
an exclusive representative entered into pursuant to this chapter 39841
governs the wages, hours, and terms and conditions of public 39842
employment covered by the agreement. If the agreement provides for 39843
a final and binding arbitration of grievances, public employers, 39844
employees, and employee organizations are subject solely to that 39845
grievance procedure and the state personnel board of review or 39846
civil service commissions have no jurisdiction to receive and 39847

determine any appeals relating to matters that were the subject of 39848
a final and binding grievance procedure. Where no agreement exists 39849
or where an agreement makes no specification about a matter, the 39850
public employer and public employees are subject to all applicable 39851
state or local laws or ordinances pertaining to the wages, hours, 39852
and terms and conditions of employment for public employees. Laws 39853
pertaining to civil rights, affirmative action, unemployment 39854
compensation, workers' compensation, the retirement of public 39855
employees, and residency requirements, the minimum educational 39856
requirements contained in the Revised Code pertaining to public 39857
education including the requirement of a certificate by the fiscal 39858
officer of a school district pursuant to section 5705.41 of the 39859
Revised Code, the provisions of division (A) of section 124.34 of 39860
the Revised Code governing the disciplining of officers and 39861
employees who have been convicted of a felony, and the minimum 39862
standards promulgated by the state board of education pursuant to 39863
division (D) of section 3301.07 of the Revised Code prevail over 39864
conflicting provisions of agreements between employee 39865
organizations and public employers. The law pertaining to the 39866
leave of absence and compensation provided under section 5923.05 39867
of the Revised Code prevails over any conflicting provisions of 39868
such agreements if the terms of the agreement contain benefits 39869
which are less than those contained in that section or the 39870
agreement contains no such terms and the public authority is the 39871
state or any agency, authority, commission, or board of the state 39872
or if the public authority is another entity listed in division 39873
(B) of section 4117.01 of the Revised Code that elects to provide 39874
leave of absence and compensation as provided in section 5923.05 39875
of the Revised Code. Except for sections 306.08, 306.12, 306.35, 39876
and 4981.22 of the Revised Code and arrangements entered into 39877
thereunder, and section 4981.21 of the Revised Code as necessary 39878
to comply with section 13(c) of the "Urban Mass Transportation Act 39879
of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and 39880

arrangements entered into thereunder, this chapter prevails over 39881
any and all other conflicting laws, resolutions, provisions, 39882
present or future, except as otherwise specified in this chapter 39883
or as otherwise specified by the general assembly. Nothing in this 39884
section prohibits or shall be construed to invalidate the 39885
provisions of an agreement establishing supplemental workers' 39886
compensation or unemployment compensation benefits or exceeding 39887
minimum requirements contained in the Revised Code pertaining to 39888
public education or the minimum standards promulgated by the state 39889
board of education pursuant to division (D) of section 3301.07 of 39890
the Revised Code. 39891

(B) The public employer shall submit a request for funds 39892
necessary to implement an agreement and for approval of any other 39893
matter requiring the approval of the appropriate legislative body 39894
to the legislative body within fourteen days of the date on which 39895
the parties finalize the agreement, unless otherwise specified, 39896
but if the appropriate legislative body is not in session at the 39897
time, then within fourteen days after it convenes. The legislative 39898
body must approve or reject the submission as a whole, and the 39899
submission is deemed approved if the legislative body fails to act 39900
within thirty days after the public employer submits the 39901
agreement. The parties may specify that those provisions of the 39902
agreement not requiring action by a legislative body are effective 39903
and operative in accordance with the terms of the agreement, 39904
provided there has been compliance with division (C) of this 39905
section. If the legislative body rejects the submission of the 39906
public employer, either party may reopen all or part of the entire 39907
agreement. 39908

As used in this section, "legislative body" includes ~~the~~ 39909
~~general assembly,~~ the governing board of a municipal corporation, 39910
school district, college or university, village, township, or 39911
board of county commissioners or any other body that has authority 39912

to approve the budget of their public jurisdiction and, with 39913
regard to the state, "legislative body" means the controlling 39914
board. 39915

(C) The chief executive officer, or the chief executive 39916
officer's representative, of each municipal corporation, the 39917
designated representative of the board of education of each school 39918
district, college or university, or any other body that has 39919
authority to approve the budget of their public jurisdiction, the 39920
designated representative of the board of county commissioners and 39921
of each elected officeholder of the county whose employees are 39922
covered by the collective negotiations, and the designated 39923
representative of the village or the board of township trustees of 39924
each township is responsible for negotiations in the collective 39925
bargaining process; except that the legislative body may accept or 39926
reject a proposed collective bargaining agreement. When the 39927
matters about which there is agreement are reduced to writing and 39928
approved by the employee organization and the legislative body, 39929
the agreement is binding upon the legislative body, the employer, 39930
and the employee organization and employees covered by the 39931
agreement. 39932

(D) There is hereby established an office of collective 39933
bargaining in the department of administrative services for the 39934
purpose of negotiating with and entering into written agreements 39935
between state agencies, departments, boards, and commissions and 39936
the exclusive representative on matters of wages, hours, terms and 39937
other conditions of employment and the continuation, modification, 39938
or deletion of an existing provision of a collective bargaining 39939
agreement. Nothing in any provision of law to the contrary shall 39940
be interpreted as excluding the bureau of workers' compensation 39941
and the industrial commission from the preceding sentence. This 39942
office shall not negotiate on behalf of other statewide elected 39943
officials or boards of trustees of state institutions of higher 39944

education who shall be considered as separate public employers for 39945
the purposes of this chapter; however, the office may negotiate on 39946
behalf of these officials or trustees where authorized by the 39947
officials or trustees. The staff of the office of collective 39948
bargaining are in the unclassified service. The director of 39949
administrative services shall fix the compensation of the staff. 39950

The office of collective bargaining shall: 39951

(1) Assist the director in formulating management's 39952
philosophy for public collective bargaining as well as planning 39953
bargaining strategies; 39954

(2) Conduct negotiations with the exclusive representatives 39955
of each employee organization; 39956

(3) Coordinate the state's resources in all mediation, 39957
fact-finding, and arbitration cases as well as in all labor 39958
disputes; 39959

(4) Conduct systematic reviews of collective bargaining 39960
agreements for the purpose of contract negotiations; 39961

(5) Coordinate the systematic compilation of data by all 39962
agencies that is required for negotiating purposes; 39963

(6) Prepare and submit an annual report and other reports as 39964
requested to the governor and the general assembly on the 39965
implementation of this chapter and its impact upon state 39966
government. 39967

Sec. 4117.103. Notwithstanding any provision of section 39968
4117.08 or 4117.10 of the Revised Code to the contrary, no 39969
agreement entered into under this chapter on or after the 39970
effective date of this section shall prohibit a school district 39971
board of education from utilizing volunteers to assist the 39972
district and its schools in performing any of their functions, 39973
other than functions for which a license, permit, or certificate 39974

issued by the state board of education under section 3301.074 or 39975
Chapter 3319. of the Revised Code or a certificate issued under 39976
division (A) or (B) of section 3327.10 of the Revised Code is 39977
required. 39978

Sec. 4117.24. The training ~~and~~, publications, ~~and~~ grants fund 39979
is hereby created in the state treasury. The state employment 39980
relations board shall deposit into the training ~~and~~, publications, 39981
~~and~~ grants fund all ~~payments~~ moneys received from the following 39982
sources: 39983

(A) Payments received by the board for copies of documents, 39984
rulebooks, and other publications; ~~fees~~ 39985

(B) Fees received from seminar participants; ~~and receipts~~ 39986

(C) Receipts from the sale of clearinghouse data; 39987

(D) Moneys received from grants, donations, awards, bequests, 39988
gifts, reimbursements, and similar funds; 39989

(E) Reimbursement received for professional services and 39990
expenses related to professional services; 39991

(F) Funds received to support the development of labor 39992
relations services and programs. The state employment relations 39993
board shall use all moneys deposited into the training ~~and~~, 39994
publications, ~~and~~ grants fund to defray the costs of furnishing 39995
and making available copies of documents, rulebooks, and other 39996
publications; the costs of planning, organizing, and conducting 39997
training seminars; the costs associated with grant projects, 39998
innovative labor-management cooperation programs, research 39999
projects related to these grants and programs, and the advancement 40000
in professionalism of public sector relations; the professional 40001
development of board employees; and the costs of compiling 40002
clearinghouse data. 40003

The board may seek, solicit, apply for, receive, and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held for, used for, and applied to only the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, the United States or any agency thereof, the state or any agency thereof, and any political subdivision of the state, and may enter into any contract with any such public or private source in connection therewith to be held for, used for, and applied to only the purposes for which such grants are made and contracts are entered into, all subject to and in accordance with the purposes of this chapter. Any money received from the grants, gifts, contributions, or contracts shall be deposited into the training, publications, and grants fund.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public

utility to any person other than the administrator or to the superior of such employee of the bureau.

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Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

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The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

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Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state

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of the amount of workers' compensation paid to the person during 40068
such period as the director specifies. 40069

The bureau and its employees, except for purposes of 40070
furnishing the auditor of state with information required by this 40071
section, shall preserve the confidentiality of recipients or 40072
participants of public assistance in compliance with division (A) 40073
of section 5101.181 of the Revised Code. 40074

For the purposes of this section, "public assistance" means 40075
medical assistance provided through the medical assistance program 40076
established under section 5111.01 of the Revised Code, Ohio works 40077
first provided under Chapter 5107. of the Revised Code, 40078
prevention, retention, and contingency benefits and services 40079
provided under Chapter 5108. of the Revised Code, or disability 40080
financial assistance provided under Chapter 5115. of the Revised 40081
Code, ~~or disability medical assistance provided under Chapter~~ 40082
~~5115. of the Revised Code.~~ 40083

Sec. 4301.10. (A) The division of liquor control shall do all 40084
of the following: 40085

(1) Control the traffic in beer and intoxicating liquor in 40086
this state, including the manufacture, importation, and sale of 40087
beer and intoxicating liquor; 40088

(2) Grant or refuse permits for the manufacture, 40089
distribution, transportation, and sale of beer and intoxicating 40090
liquor and the sale of alcohol, as authorized or required by this 40091
chapter and Chapter 4303. of the Revised Code. A certificate, 40092
signed by the superintendent of liquor control and to which is 40093
affixed the official seal of the division, stating that it appears 40094
from the records of the division that no permit has been issued to 40095
the person specified in the certificate, or that a permit, if 40096
issued, has been revoked, canceled, or suspended, shall be 40097

received as prima-facie evidence of the facts recited in the 40098
certificate in any court or before any officer of this state. 40099

(3) Put into operation, manage, and control a system of state 40100
liquor stores for the sale of spirituous liquor at retail and to 40101
holders of permits authorizing the sale of spirituous liquor; 40102
however, the division shall not establish any drive-in state 40103
liquor stores; and by means of those types of stores, and any 40104
manufacturing plants, distributing and bottling plants, 40105
warehouses, and other facilities that it considers expedient, 40106
establish and maintain a state monopoly of the distribution of 40107
spirituous liquor and its sale in packages or containers; and for 40108
that purpose, manufacture, buy, import, possess, and sell 40109
spirituous liquors as provided in this chapter and Chapter 4303. 40110
of the Revised Code, and in the rules promulgated by the 40111
superintendent of liquor control pursuant to those chapters; lease 40112
or in any manner acquire the use of any land or building required 40113
for any of those purposes; purchase any equipment that is 40114
required; and borrow money to carry on its business, and issue, 40115
sign, endorse, and accept notes, checks, and bills of exchange; 40116
but all obligations of the division created under authority of 40117
this division shall be a charge only upon the moneys received by 40118
the division from the sale of spirituous liquor and its other 40119
business transactions in connection with the sale of spirituous 40120
liquor, and shall not be general obligations of the state; 40121

(4) Enforce the administrative provisions of this chapter and 40122
Chapter 4303. of the Revised Code, and the rules and orders of the 40123
liquor control commission and the superintendent relating to the 40124
manufacture, importation, transportation, distribution, and sale 40125
of beer ~~and or~~ intoxicating ~~liquors~~ liquor. The attorney general, 40126
any prosecuting attorney, and any prosecuting officer of a 40127
municipal corporation or a municipal court shall, at the request 40128
of the division of liquor control or the department of public 40129

safety, prosecute any person charged with the violation of any 40130
provision in those chapters or of any section of the Revised Code 40131
relating to the manufacture, importation, transportation, 40132
distribution, and sale of beer ~~and~~ or intoxicating liquor. 40133

(5) Determine the locations of all state liquor stores and 40134
manufacturing, distributing, and bottling plants required in 40135
connection with those stores, subject to this chapter and Chapter 40136
4303. of the Revised Code; 40137

(6) Conduct inspections of liquor permit premises to 40138
determine compliance with the administrative provisions of this 40139
chapter and Chapter 4303. of the Revised Code and the rules 40140
adopted under those provisions by the liquor control commission. 40141

Except as otherwise provided in division (A)(6) of this 40142
section, those inspections may be conducted only during those 40143
hours in which the permit holder is open for business and only by 40144
authorized agents or employees of the division or by any peace 40145
officer, as defined in section 2935.01 of the Revised Code. 40146
Inspections may be conducted at other hours only to determine 40147
compliance with laws or commission rules that regulate the hours 40148
of sale of beer ~~and~~ or intoxicating liquor and only if the 40149
investigator has reasonable cause to believe that those laws or 40150
rules are being violated. Any inspection conducted pursuant to 40151
division (A)(6) of this section is subject to all of the following 40152
requirements: 40153

(a) The only property that may be confiscated is contraband, 40154
as defined in section 2901.01 of the Revised Code, or property 40155
that is otherwise necessary for evidentiary purposes. 40156

(b) A complete inventory of all property confiscated from the 40157
premises shall be given to the permit holder or the permit 40158
holder's agent or employee by the confiscating agent or officer at 40159
the conclusion of the inspection. At that time, the inventory 40160

shall be signed by the confiscating agent or officer, and the
agent or officer shall give the permit holder or the permit
holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this
section shall be conducted in a reasonable manner. A finding by
any court of competent jurisdiction that ~~the~~ an inspection was not
conducted in a reasonable manner in accordance with this section
or any rules ~~promulgated~~ adopted by the commission may be
considered grounds for suppression of evidence. A finding by the
~~liquor control~~ commission that ~~the~~ an inspection was not conducted
in a reasonable manner in accordance with this section or any
rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered
grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property
confiscated as the result of an administrative inspection is not
necessary for evidentiary purposes and is not contraband, as
defined in section 2901.01 of the Revised Code, the court shall
order the immediate return of the confiscated property, provided
that property is not otherwise subject to forfeiture, to the
permit holder. However, the return of this property is not grounds
for dismissal of the case. The commission likewise may order the
return of confiscated property if no criminal prosecution is
pending or anticipated.

(7) Delegate to any of its agents or employees any power of
investigation that the division possesses with respect to the
enforcement of any of the administrative laws relating to beer ~~and~~
or intoxicating liquor, provided that this division does not
authorize the division to designate any agent or employee to serve
as an enforcement agent. The employment and designation of
enforcement agents shall be within the exclusive authority of the
director of public safety pursuant to sections 5502.13 to 5502.19
of the Revised Code.

- (8) Collect the following fees: 40193
- (a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for 40194
each agent, solicitor, or salesperson, registered pursuant to 40195
section 4303.25 of the Revised Code, of a beer or intoxicating 40196
liquor manufacturer, supplier, broker, or wholesale distributor 40197
doing business in this state; 40198
- (b) A fifty-dollar product registration fee for each new beer 40199
or intoxicating liquor product sold in this state. The product 40200
registration fee shall be accompanied by a copy of the federal 40201
label and product approval for the new product. 40202
- (c) An annual three-hundred-dollar supplier registration fee 40203
from each manufacturer or supplier that produces and ships into 40204
this state, or ships into this state, intoxicating liquor or beer, 40205
in addition to an initial application fee of one hundred dollars. 40206
- Each supplier, agent, solicitor, or salesperson registration 40207
issued under this division shall authorize the person named to 40208
carry on the activity specified in the registration. Each agent, 40209
solicitor, or salesperson registration is valid for two years or 40210
for the unexpired portion of a two-year registration period. Each 40211
supplier registration is valid for one year or for the unexpired 40212
portion of a one-year registration period. Registrations shall end 40213
on their respective uniform expiration date, which shall be 40214
designated by the division, and are subject to suspension, 40215
revocation, cancellation, or fine as authorized by this chapter 40216
and Chapter 4303. of the Revised Code. 40217
- (9) Establish a system of electronic data interchange within 40218
the division and regulate the electronic transfer of information 40219
and funds among persons and governmental entities engaged in the 40220
manufacture, distribution, and retail sale of alcoholic beverages; 40221
- (10) Exercise all other powers expressly or by necessary 40222
implication conferred upon the division by this chapter and 40223

Chapter 4303. of the Revised Code, and all powers necessary for 40224
the exercise or discharge of any power, duty, or function 40225
expressly conferred or imposed upon the division by those 40226
chapters. 40227

(B) The division may do all of the following: 40228

(1) Sue, but may be sued only in connection with the 40229
execution of leases of real estate and the purchases and contracts 40230
necessary for the operation of the state liquor stores that are 40231
made under this chapter and Chapter 4303. of the Revised Code; 40232

(2) Enter into leases and contracts of all descriptions and 40233
acquire and transfer title to personal property with regard to the 40234
sale, distribution, and storage of spirituous liquor within the 40235
state; 40236

(3) Terminate at will any lease entered into pursuant to 40237
division (B)(2) of this section upon first giving ninety days' 40238
notice in writing to the lessor of its intention to do so; 40239

(4) Fix the wholesale and retail prices at which the various 40240
classes, varieties, and brands of spirituous liquor shall be sold 40241
by the division. Those retail prices shall be the same at all 40242
state liquor stores, except to the extent that a price 40243
differential is required to collect a county sales tax levied 40244
pursuant to section 5739.021 of the Revised Code and for which tax 40245
the tax commissioner has authorized prepayment pursuant to section 40246
5739.05 of the Revised Code. In fixing selling prices, the 40247
division shall compute an anticipated gross profit at least 40248
sufficient to provide in each calendar year all costs and expenses 40249
of the division and also an adequate working capital reserve for 40250
the division. The gross profit shall not exceed forty per cent of 40251
the retail selling price based on costs of the division, and in 40252
addition the sum required by section 4301.12 of the Revised Code 40253
to be paid into the state treasury. An amount equal to one and 40254

one-half per cent of that gross profit shall be paid into the 40255
statewide treatment and prevention fund created by section 4301.30 40256
of the Revised Code and be appropriated by the general assembly 40257
from the fund to the department of alcohol and drug addiction 40258
services as provided in section 4301.30 of the Revised Code. 40259

On spirituous liquor manufactured in this state from the 40260
juice of grapes or fruits grown in this state, the division shall 40261
compute an anticipated gross profit of not to exceed ten per cent. 40262
The 40263

The wholesale prices fixed under this division shall be at a 40264
discount of not less than ~~twelve and one half~~ six per cent of the 40265
retail selling prices as determined by the division in accordance 40266
with this section. 40267

(C) The division may approve the expansion or diminution of a 40268
premises to which a liquor permit has been issued and may adopt 40269
standards governing such an expansion or diminution. 40270

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 40271
the Revised Code: 40272

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 40273
fluid ounces. 40274

(2) "Sale" or "sell" includes exchange, barter, gift, 40275
distribution, and, except with respect to A-4 permit holders, 40276
offer for sale. 40277

(B) For the purposes of providing revenues for the support of 40278
the state and encouraging the grape industries in the state, a tax 40279
is hereby levied on the sale or distribution of wine in Ohio, 40280
except for known sacramental purposes, at the rate of thirty cents 40281
per wine gallon for wine containing not less than four per cent of 40282
alcohol by volume and not more than fourteen per cent of alcohol 40283
by volume, ninety-eight cents per wine gallon for wine containing 40284

more than fourteen per cent but not more than twenty-one per cent 40285
of alcohol by volume, one dollar and eight cents per wine gallon 40286
for vermouth, and one dollar and forty-eight cents per wine gallon 40287
for sparkling and carbonated wine and champagne, the tax to be 40288
paid by the holders of A-2 and B-5 permits or by any other person 40289
selling or distributing wine upon which no tax has been paid. From 40290
the tax paid under this section on wine, vermouth, and sparkling 40291
and carbonated wine and champagne, the treasurer of state shall 40292
credit to the Ohio grape industries fund created under section 40293
924.54 of the Revised Code a sum equal to one cent per gallon for 40294
each gallon upon which the tax is paid. 40295

(C) For the purpose of providing revenues for the support of 40296
the state, there is hereby levied a tax on prepared and bottled 40297
highballs, cocktails, cordials, and other mixed beverages at the 40298
rate of one dollar and twenty cents per wine gallon to be paid by 40299
holders of A-4 permits or by any other person selling or 40300
distributing those products upon which no tax has been paid. Only 40301
one sale of the same article shall be used in computing the amount 40302
of tax due. The tax on mixed beverages to be paid by holders of 40303
A-4 permits under this section shall not attach until the 40304
ownership of the mixed beverage is transferred for valuable 40305
consideration to a wholesaler or retailer, and no payment of the 40306
tax shall be required prior to that time. 40307

(D) During the period of July 1, ~~2003~~ 2005, through June 30, 40308
~~2005~~ 2007, from the tax paid under this section on wine, vermouth, 40309
and sparkling and carbonated wine and champagne, the treasurer of 40310
state shall credit to the Ohio grape industries fund created under 40311
section 924.54 of the Revised Code a sum equal to two cents per 40312
gallon upon which the tax is paid. The amount credited under this 40313
division is in addition to the amount credited to the Ohio grape 40314
industries fund under division (B) of this section. 40315

(E) For the purpose of providing revenues for the support of 40316

the state, there is hereby levied a tax on cider at the rate of 40317
twenty-four cents per wine gallon to be paid by the holders of A-2 40318
and B-5 permits or by any other person selling or distributing 40319
cider upon which no tax has been paid. Only one sale of the same 40320
article shall be used in computing the amount of the tax due. 40321

Sec. 4303.182. (A) Except as otherwise provided in divisions 40322
(B) to (G) of this section, permit D-6 shall be issued to the 40323
holder of an A-1-A, A-2, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, 40324
D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 40325
or D-7 permit to allow sale under that permit between the hours of 40326
ten a.m. and midnight, or between the hours of one p.m. and 40327
midnight, on Sunday, as applicable, if that sale has been 40328
authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 40329
of the Revised Code and under the restrictions of that 40330
authorization. 40331

(B) Permit D-6 shall be issued to the holder of any permit, 40332
including a D-4a and D-5d permit, authorizing the sale of 40333
intoxicating liquor issued for a premises located at any publicly 40334
owned airport, as defined in section 4563.01 of the Revised Code, 40335
at which commercial airline companies operate regularly scheduled 40336
flights on which space is available to the public, to allow sale 40337
under such permit between the hours of ten a.m. and midnight on 40338
Sunday, whether or not that sale has been authorized under section 40339
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 40340

(C) Permit D-6 shall be issued to the holder of a D-5a 40341
permit, and to the holder of a D-3 or D-3a permit who is the owner 40342
or operator of a hotel or motel that is required to be licensed 40343
under section 3731.03 of the Revised Code, that contains at least 40344
fifty rooms for registered transient guests, and that has on its 40345
premises a retail food establishment or a food service operation 40346
licensed pursuant to Chapter 3717. of the Revised Code that 40347

operates as a restaurant for purposes of this chapter and is 40348
affiliated with the hotel or motel and within or contiguous to the 40349
hotel or motel and serving food within the hotel or motel, to 40350
allow sale under such permit between the hours of ten a.m. and 40351
midnight on Sunday, whether or not that sale has been authorized 40352
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 40353
Revised Code. 40354

(D) The holder of a D-6 permit that is issued to a sports 40355
facility may make sales under the permit between the hours of 40356
eleven a.m. and midnight on any Sunday on which a professional 40357
baseball, basketball, football, hockey, or soccer game is being 40358
played at the sports facility. As used in this division, "sports 40359
facility" means a stadium or arena that has a seating capacity of 40360
at least four thousand and that is owned or leased by a 40361
professional baseball, basketball, football, hockey, or soccer 40362
franchise or any combination of those franchises. 40363

(E) Permit D-6 shall be issued to the holder of any permit 40364
that authorizes the sale of beer or intoxicating liquor and that 40365
is issued to a premises located in or at the Ohio historical 40366
society area or the state fairgrounds, as defined in division (B) 40367
of section 4301.40 of the Revised Code, to allow sale under that 40368
permit between the hours of ten a.m. and midnight on Sunday, 40369
whether or not that sale has been authorized under section 40370
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 40371

(F) Permit D-6 shall be issued to the holder of any permit 40372
that authorizes the sale of intoxicating liquor and that is issued 40373
to an outdoor performing arts center to allow sale under that 40374
permit between the hours of one p.m. and midnight on Sunday, 40375
whether or not that sale has been authorized under section 40376
4301.361 of the Revised Code. A D-6 permit issued under this 40377
division is subject to the results of an election, held after the 40378
D-6 permit is issued, on question (B)(4) as set forth in section 40379

4301.351 of the Revised Code. Following the end of the period 40380
during which an election may be held on question (B)(4) as set 40381
forth in that section, sales of intoxicating liquor may continue 40382
at an outdoor performing arts center under a D-6 permit issued 40383
under this division, unless an election on that question is held 40384
during the permitted period and a majority of the voters voting in 40385
the precinct on that question vote "no." 40386

As used in this division, "outdoor performing arts center" 40387
means an outdoor performing arts center that is located on not 40388
less than eight hundred acres of land and that is open for 40389
performances from the first day of April to the last day of 40390
October of each year. 40391

(G) Permit D-6 shall be issued to the holder of any permit 40392
that authorizes the sale of beer or intoxicating liquor and that 40393
is issued to a golf course owned by the state, a conservancy 40394
district, a park district created under Chapter 1545. of the 40395
Revised Code, or another political subdivision to allow sale under 40396
that permit between the hours of ten a.m. and midnight on Sunday, 40397
whether or not that sale has been authorized under section 40398
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 40399

(H) Permit D-6 shall be issued to the holder of a D-5g permit 40400
to allow sale under that permit between the hours of ten a.m. and 40401
midnight on Sunday, whether or not that sale has been authorized 40402
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 40403
Revised Code. 40404

(I) Permit D-6 shall be issued to the holder of a D-5 permit 40405
for a premises that is licensed under section 3717.43 of the 40406
Revised Code and that is located at a ski area as defined in 40407
section 4169.01 of the Revised Code to allow sale under the D-6 40408
permit between the hours of ten a.m. and midnight on Sunday, 40409
whether or not that sale has been authorized under section 40410

4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 40411

(J) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(J)~~(K) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized

bicycles, road rollers, traction engines, power shovels, power 40442
cranes, and other equipment used in construction work and not 40443
designed for or employed in general highway transportation, 40444
well-drilling machinery, ditch-digging machinery, farm machinery, 40445
trailers that are used to transport agricultural produce or 40446
agricultural production materials between a local place of storage 40447
or supply and the farm when drawn or towed on a public road or 40448
highway at a speed of twenty-five miles per hour or less, 40449
threshing machinery, hay-baling machinery, corn sheller, 40450
hammermill and agricultural tractors, machinery used in the 40451
production of horticultural, agricultural, and vegetable products, 40452
and trailers that are designed and used exclusively to transport a 40453
boat between a place of storage and a marina, or in and around a 40454
marina, when drawn or towed on a public road or highway for a 40455
distance of no more than ten miles and at a speed of twenty-five 40456
miles per hour or less. 40457

(C) "Agricultural tractor" and "traction engine" mean any 40458
self-propelling vehicle that is designed or used for drawing other 40459
vehicles or wheeled machinery, but has no provisions for carrying 40460
loads independently of such other vehicles, and that is used 40461
principally for agricultural purposes. 40462

(D) "Commercial tractor," except as defined in division (C) 40463
of this section, means any motor vehicle that has motive power and 40464
either is designed or used for drawing other motor vehicles, or is 40465
designed or used for drawing another motor vehicle while carrying 40466
a portion of the other motor vehicle or its load, or both. 40467

(E) "Passenger car" means any motor vehicle that is designed 40468
and used for carrying not more than nine persons and includes any 40469
motor vehicle that is designed and used for carrying not more than 40470
fifteen persons in a ridesharing arrangement. 40471

(F) "Collector's vehicle" means any motor vehicle or 40472
agricultural tractor or traction engine that is of special 40473

interest, that has a fair market value of one hundred dollars or
more, whether operable or not, and that is owned, operated,
collected, preserved, restored, maintained, or used essentially as
a collector's item, leisure pursuit, or investment, but not as the
owner's principal means of transportation. "Licensed collector's
vehicle" means a collector's vehicle, other than an agricultural
tractor or traction engine, that displays current, valid license
tags issued under section 4503.45 of the Revised Code, or a
similar type of motor vehicle that displays current, valid license
tags issued under substantially equivalent provisions in the laws
of other states.

(G) "Historical motor vehicle" means any motor vehicle that
is over twenty-five years old and is owned solely as a collector's
item and for participation in club activities, exhibitions, tours,
parades, and similar uses, but that in no event is used for
general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle,
including a farm truck as defined in section 4503.04 of the
Revised Code, that is designed by the manufacturer to carry a load
of no more than one ton and is used exclusively for purposes other
than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is
designed and used for carrying more than nine passengers, except
any motor vehicle that is designed and used for carrying not more
than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that
has motor power and is designed and used for carrying merchandise
or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that
is designed solely for use as a play vehicle by a child, that is
propelled solely by human power upon which any person may ride,

and that has either two tandem wheels, or one wheel in front and
two wheels in the rear, any of which is more than fourteen inches
in diameter.

(L) "Motorized bicycle" means any vehicle that either has two
tandem wheels or one wheel in the front and two wheels in the
rear, that is capable of being pedaled, and that is equipped with
a helper motor of not more than fifty cubic centimeters piston
displacement that produces no more than one brake horsepower and
is capable of propelling the vehicle at a speed of no greater than
twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is
designed or used for carrying property or persons wholly on its
own structure and for being drawn by a motor vehicle, and includes
any such vehicle that is formed by or operated as a combination of
a semitrailer and a vehicle of the dolly type such as that
commonly known as a trailer dolly, a vehicle used to transport
agricultural produce or agricultural production materials between
a local place of storage or supply and the farm when drawn or
towed on a public road or highway at a speed greater than
twenty-five miles per hour, and a vehicle that is designed and
used exclusively to transport a boat between a place of storage
and a marina, or in and around a marina, when drawn or towed on a
public road or highway for a distance of more than ten miles or at
a speed of more than twenty-five miles per hour. "Trailer" does
not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a
travel trailer or trailer that is used to transport a boat as
described in division (B) of this section, but, where applicable,
includes a vehicle that is used to transport a boat as described
in division (M) of this section, that has a gross weight of no
more than three thousand pounds, and that is used exclusively for
purposes other than engaging in business for a profit.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

(1) It is designed for the sole purpose of recreational travel.

(2) It is not used for the purpose of engaging in business for profit.

(3) It is not used for the purpose of engaging in intrastate commerce.

(4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission

pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. 40567

(6) It is classed as one of the following: 40568

(a) "Travel trailer" means a nonself-propelled recreational 40569
vehicle that does not exceed an overall length of thirty-five 40570
feet, exclusive of bumper and tongue or coupling, and contains 40571
less than three hundred twenty square feet of space when erected 40572
on site. "Travel trailer" includes a tent-type fold-out camping 40573
trailer as defined in section 4517.01 of the Revised Code. 40574

(b) "Motor home" means a self-propelled recreational vehicle 40575
that has no fifth wheel and is constructed with permanently 40576
installed facilities for cold storage, cooking and consuming of 40577
food, and for sleeping. 40578

(c) "Truck camper" means a nonself-propelled recreational 40579
vehicle that does not have wheels for road use and is designed to 40580
be placed upon and attached to a motor vehicle. "Truck camper" 40581
does not include truck covers that consist of walls and a roof, 40582
but do not have floors and facilities enabling them to be used as 40583
a dwelling. 40584

(d) "Fifth wheel trailer" means a vehicle that is of such 40585
size and weight as to be movable without a special highway permit, 40586
that has a gross trailer area of four hundred square feet or less, 40587
that is constructed with a raised forward section that allows a 40588
bi-level floor plan, and that is designed to be towed by a vehicle 40589
equipped with a fifth-wheel hitch ordinarily installed in the bed 40590
of a truck. 40591

(e) "Park trailer" means a vehicle that is commonly known as 40592
a park model recreational vehicle, meets the American national 40593
standard institute standard A119.5 (1988) for park trailers, is 40594
built on a single chassis, has a gross trailer area of four 40595
hundred square feet or less when set up, is designed for seasonal 40596
or temporary living quarters, and may be connected to utilities 40597

necessary for the operation of installed features and appliances. 40598

(R) "Pneumatic tires" means tires of rubber and fabric or 40599
tires of similar material, that are inflated with air. 40600

(S) "Solid tires" means tires of rubber or similar elastic 40601
material that are not dependent upon confined air for support of 40602
the load. 40603

(T) "Solid tire vehicle" means any vehicle that is equipped 40604
with two or more solid tires. 40605

(U) "Farm machinery" means all machines and tools that are 40606
used in the production, harvesting, and care of farm products, and 40607
includes trailers that are used to transport agricultural produce 40608
or agricultural production materials between a local place of 40609
storage or supply and the farm when drawn or towed on a public 40610
road or highway at a speed of twenty-five miles per hour or less. 40611

(V) "Owner" includes any person or firm, other than a 40612
manufacturer or dealer, that has title to a motor vehicle, except 40613
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 40614
includes in addition manufacturers and dealers. 40615

(W) "Manufacturer" and "dealer" include all persons and firms 40616
that are regularly engaged in the business of manufacturing, 40617
selling, displaying, offering for sale, or dealing in motor 40618
vehicles, at an established place of business that is used 40619
exclusively for the purpose of manufacturing, selling, displaying, 40620
offering for sale, or dealing in motor vehicles. A place of 40621
business that is used for manufacturing, selling, displaying, 40622
offering for sale, or dealing in motor vehicles shall be deemed to 40623
be used exclusively for those purposes even though snowmobiles or 40624
all-purpose vehicles are sold or displayed for sale thereat, even 40625
though farm machinery is sold or displayed for sale thereat, or 40626
even though repair, accessory, gasoline and oil, storage, parts, 40627
service, or paint departments are maintained thereat, or, in any 40628

county having a population of less than seventy-five thousand at 40629
the last federal census, even though a department in a place of 40630
business is used to dismantle, salvage, or rebuild motor vehicles 40631
by means of used parts, if such departments are operated for the 40632
purpose of furthering and assisting in the business of 40633
manufacturing, selling, displaying, offering for sale, or dealing 40634
in motor vehicles. Places of business or departments in a place of 40635
business used to dismantle, salvage, or rebuild motor vehicles by 40636
means of using used parts are not considered as being maintained 40637
for the purpose of assisting or furthering the manufacturing, 40638
selling, displaying, and offering for sale or dealing in motor 40639
vehicles. 40640

(X) "Operator" includes any person who drives or operates a 40641
motor vehicle upon the public highways. 40642

(Y) "Chauffeur" means any operator who operates a motor 40643
vehicle, other than a taxicab, as an employee for hire; or any 40644
operator whether or not the owner of a motor vehicle, other than a 40645
taxicab, who operates such vehicle for transporting, for gain, 40646
compensation, or profit, either persons or property owned by 40647
another. Any operator of a motor vehicle who is voluntarily 40648
involved in a ridesharing arrangement is not considered an 40649
employee for hire or operating such vehicle for gain, 40650
compensation, or profit. 40651

(Z) "State" includes the territories and federal districts of 40652
the United States, and the provinces of Canada. 40653

(AA) "Public roads and highways" for vehicles includes all 40654
public thoroughfares, bridges, and culverts. 40655

(BB) "Manufacturer's number" means the manufacturer's 40656
original serial number that is affixed to or imprinted upon the 40657
chassis or other part of the motor vehicle. 40658

(CC) "Motor number" means the manufacturer's original number 40659

that is affixed to or imprinted upon the engine or motor of the vehicle. 40660
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(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership. 40662
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(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools. 40670
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(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications: 40674
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(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds; 40680
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(2) Is a power unit having three or more axles, regardless of the gross vehicle weight; 40682
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(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds. 40684
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"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this 40686
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state, or any political subdivisions thereof. 40690

(GG) "Chartered party" means a group of persons who contract 40691
as a group to acquire the exclusive use of a passenger-carrying 40692
motor vehicle at a fixed charge for the vehicle in accordance with 40693
the carrier's tariff, lawfully on file with the United States 40694
department of transportation, for the purpose of group travel to a 40695
specified destination or for a particular itinerary, either agreed 40696
upon in advance or modified by the chartered group after having 40697
left the place of origin. 40698

(HH) "International registration plan" means a reciprocal 40699
agreement of member jurisdictions that is endorsed by the American 40700
association of motor vehicle administrators, and that promotes and 40701
encourages the fullest possible use of the highway system by 40702
authorizing apportioned registration of fleets of vehicles and 40703
recognizing registration of vehicles apportioned in member 40704
jurisdictions. 40705

(II) "Restricted plate" means a license plate that has a 40706
restriction of time, geographic area, mileage, or commodity, and 40707
includes license plates issued to farm trucks under division (J) 40708
of section 4503.04 of the Revised Code. 40709

(JJ) "Gross vehicle weight," with regard to any commercial 40710
car, trailer, semitrailer, or bus that is taxed at the rates 40711
established under section 4503.042 of the Revised Code, means the 40712
unladen weight of the vehicle fully equipped plus the maximum 40713
weight of the load to be carried on the vehicle. 40714

(KK) "Combined gross vehicle weight" with regard to any 40715
combination of a commercial car, trailer, and semitrailer, that is 40716
taxed at the rates established under section 4503.042 of the 40717
Revised Code, means the total unladen weight of the combination of 40718
vehicles fully equipped plus the maximum weight of the load to be 40719
carried on that combination of vehicles. 40720

(LL) "Chauffeured limousine" means a motor vehicle that is 40721
designed to carry nine or fewer passengers and is operated for 40722
hire on an hourly basis pursuant to a prearranged contract for the 40723
transportation of passengers on public roads and highways along a 40724
route under the control of the person hiring the vehicle and not 40725
over a defined and regular route. "Prearranged contract" means an 40726
agreement, made in advance of boarding, to provide transportation 40727
from a specific location in a chauffeured limousine at a fixed 40728
rate per hour or trip. "Chauffeured limousine" does not include 40729
any vehicle that is used exclusively in the business of funeral 40730
directing. 40731

(MM) "Manufactured home" has the same meaning as in division 40732
(C)(4) of section 3781.06 of the Revised Code. 40733

(NN) "Acquired situs," with respect to a manufactured home or 40734
a mobile home, means to become located in this state by the 40735
placement of the home on real property, but does not include the 40736
placement of a manufactured home or a mobile home in the inventory 40737
of a new motor vehicle dealer or the inventory of a manufacturer, 40738
remanufacturer, or distributor of manufactured or mobile homes. 40739

(OO) "Electronic" includes electrical, digital, magnetic, 40740
optical, electromagnetic, or any other form of technology that 40741
entails capabilities similar to these technologies. 40742

(PP) "Electronic record" means a record generated, 40743
communicated, received, or stored by electronic means for use in 40744
an information system or for transmission from one information 40745
system to another. 40746

(QQ) "Electronic signature" means a signature in electronic 40747
form attached to or logically associated with an electronic 40748
record. 40749

(RR) "Financial transaction device" has the same meaning as 40750
in division (A) of section 113.40 of the Revised Code. 40751

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.

Sec. 4501.07. There is hereby created in the state treasury the highway safety building fund. Subject to any applicable provisions of the bond proceedings, all of the proceeds of the sale of highway safety obligations issued pursuant to section 152.09 of the Revised Code shall be credited to the fund. The fund shall be used to pay costs of capital facilities designated by or pursuant to acts of the general assembly. All investment earnings of the fund shall be credited to the fund.

Notwithstanding any provision of law, at any time prior to 40782
the sale of such obligations, the director of budget and 40783
management, upon the request of the director of public safety, may 40784
transfer cash temporarily from the state highway safety fund 40785
created in section 4501.06 of the Revised Code to the highway 40786
safety building fund, where such cash may be used to fund capital 40787
projects for which appropriations have been made from the highway 40788
safety building fund. At such time as the obligations are sold, 40789
the director of budget and management shall transfer from the 40790
highway safety building fund to the highway safety fund any 40791
amounts originally transferred to the highway safety building fund 40792
under this section. 40793

Sec. 4501.37. (A) No court may reverse, suspend, or delay any 40794
order made by the registrar of motor vehicles, or enjoin, 40795
restrain, or interfere with the registrar or a deputy registrar in 40796
the performance of official duties, except as provided in this 40797
chapter and Chapter 4507. or 4510. of the Revised Code. 40798

(B) A court shall not order the bureau of motor vehicles to 40799
delete a record of conviction unless the court finds that deletion 40800
of the record of conviction is necessary to correct an error. The 40801
bureau shall not comply with a court order that directs the 40802
deletion of a record of conviction unless the order states that 40803
the record of conviction is being deleted in order to correct an 40804
error. 40805

Sec. 4503.103. (A)(1)(a) The registrar of motor vehicles may 40806
adopt rules to permit any person or lessee, other than a person 40807
receiving an apportioned license plate under the international 40808
registration plan, who owns or leases one or more motor vehicles 40809
to file a written application for registration for no more than 40810
five succeeding registration years. The rules adopted by the 40811

registrar may designate the classes of motor vehicles that are 40812
eligible for such registration. At the time of application, all 40813
annual taxes and fees shall be paid for each year for which the 40814
person is registering. 40815

(b)(i) Except as provided in division (A)(1)(b)(ii) of this 40816
section, the registrar shall adopt rules to permit any person who 40817
owns a motor vehicle to file an application for registration for 40818
the next two succeeding registration years. At the time of 40819
application, the person shall pay the annual taxes and fees for 40820
each registration year, calculated in accordance with division (C) 40821
of section 4503.11 of the Revised Code. A person who is 40822
registering a vehicle under division (A)(1)(b) of this section 40823
shall pay for each year of registration the additional fee 40824
established under division (C)(1) of section 4503.10 of the 40825
Revised Code. The person shall also pay one and one-half times the 40826
amount of the deputy registrar service fee specified in division 40827
(D) of section 4503.10 of the Revised Code or the bureau of motor 40828
vehicles service fee specified in division (G) of that section, as 40829
applicable. 40830

(ii) Division (A)(1)(b)(i) of this section does not apply to 40831
a person receiving an apportioned license plate under the 40832
international registration plan, or the owner of a commercial car 40833
used solely in intrastate commerce, or the owner of a bus as 40834
defined in section 4513.50 of the Revised Code. 40835

(2) No person applying for a multi-year registration under 40836
division (A)(1) of this section is entitled to a refund of any 40837
taxes or fees paid. 40838

(3) The registrar shall not issue to any applicant who has 40839
been issued a final, nonappealable order under division (B) of 40840
this section a multi-year registration or renewal thereof under 40841
this division or rules adopted under it for any motor vehicle that 40842
is required to be inspected under section 3704.14 of the Revised 40843

Code the district of registration of which, as determined under 40844
section 4503.10 of the Revised Code, is or is located in the 40845
county named in the order. 40846

(B) Upon receipt from the director of environmental 40847
protection of a notice issued under ~~division (J) of~~ rules adopted 40848
under section 3704.14 of the Revised Code indicating that an owner 40849
of a motor vehicle that is required to be inspected under that 40850
section who obtained a multi-year registration for the vehicle 40851
under division (A) of this section or rules adopted under that 40852
division has not obtained ~~an~~ a required inspection certificate for 40853
the vehicle ~~in accordance with that section in a year intervening~~ 40854
~~between the years of issuance and expiration of the multi-year~~ 40855
~~registration in which the owner is required to have the vehicle~~ 40856
~~inspected and obtain an inspection certificate for it under~~ 40857
~~division (F)(1)(a) of that section,~~ the registrar in accordance 40858
with Chapter 119. of the Revised Code shall issue an order to the 40859
owner impounding the certificate of registration and 40860
identification license plates for the vehicle. The order also 40861
shall prohibit the owner from obtaining or renewing a multi-year 40862
registration for any vehicle that is required to be inspected 40863
under that section, the district of registration of which is or is 40864
located in the same county as the county named in the order during 40865
the number of years after expiration of the current multi-year 40866
registration that equals the number of years for which the current 40867
multi-year registration was issued. 40868

An order issued under this division shall require the owner 40869
to surrender to the registrar the certificate of registration and 40870
license plates for the vehicle named in the order within five days 40871
after its issuance. If the owner fails to do so within that time, 40872
the registrar shall certify that fact to the county sheriff or 40873
local police officials who shall recover the certificate of 40874
registration and license plates for the vehicle. 40875

(C) Upon the occurrence of either of the following 40876
circumstances, the registrar in accordance with Chapter 119. of 40877
the Revised Code shall issue to the owner a modified order 40878
rescinding the provisions of the order issued under division (B) 40879
of this section impounding the certificate of registration and 40880
license plates for the vehicle named in that original order: 40881

(1) Receipt from the director of environmental protection of 40882
a subsequent notice under ~~division (J) of~~ rules adopted under 40883
section 3704.14 of the Revised Code that the owner has obtained 40884
the inspection certificate for the vehicle as required under 40885
~~division (F)(1)(a) of that section~~ those rules; 40886

(2) Presentation to the registrar by the owner of the 40887
required inspection certificate for the vehicle. 40888

(D) The owner of a motor vehicle for which the certificate of 40889
registration and license plates have been impounded pursuant to an 40890
order issued under division (B) of this section, upon issuance of 40891
a modified order under division (C) of this section, may apply to 40892
the registrar for their return. A fee of two dollars and fifty 40893
cents shall be charged for the return of the certificate of 40894
registration and license plates for each vehicle named in the 40895
application. 40896

Sec. 4503.471. (A) Any person who is a member in good 40897
standing of the international association of firefighters may 40898
apply to the registrar of motor vehicles for the registration of 40899
any passenger car, noncommercial vehicle, ~~motor home~~ recreational 40900
vehicle, or other vehicle of a class approved by the registrar 40901
that the person owns or leases and the issuance of international 40902
association of firefighters license plates. The application shall 40903
be accompanied by the written evidence that the registrar may 40904
require by rule showing that the person is a member in good 40905
standing of the international association of firefighters. The 40906

application for international association of firefighters license 40907
plates may be combined with a request for a special reserved 40908
license plate under section 4503.40 or 4503.42 of the Revised 40909
Code. 40910

Upon receipt of an application for registration of a vehicle 40911
under this section and presentation of satisfactory evidence 40912
showing that the person is a member in good standing of the 40913
international association of firefighters, the registrar shall 40914
issue to the applicant the appropriate vehicle registrations, sets 40915
of license plates and validation stickers, or validation stickers 40916
alone when required by section 4503.191 of the Revised Code. 40917

In addition to the letters and numbers ordinarily inscribed 40918
on the license plates, international association of firefighters 40919
license plates shall be inscribed with a Maltese cross emblem 40920
designed by the international association of firefighters and 40921
approved by the registrar. International association of 40922
firefighters license plates shall bear county identification 40923
stickers that identify the county of registration by name or 40924
number. 40925

The license plates and validation stickers shall be issued 40926
upon payment of the regular license fee as prescribed under 40927
section 4503.04 of the Revised Code, payment of any local motor 40928
vehicle tax levied under Chapter 4504. of the Revised Code, and 40929
payment of an additional fee of ten dollars for the purpose of 40930
compensating the bureau of motor vehicles for additional services 40931
required in the issuing of license plates under this section. If 40932
the application for international association of firefighters 40933
license plates is combined with a request for a special reserved 40934
license plate under section 4503.40 or 4503.42 of the Revised 40935
Code, the license plate and validation sticker shall be issued 40936
upon payment of the fees and taxes contained in this division and 40937
the additional fee prescribed under section 4503.40 or 4503.42 of 40938

the Revised Code. The registrar shall deposit the additional fee 40939
of ten dollars in the state bureau of motor vehicles fund created 40940
by section 4501.25 of the Revised Code. 40941

Whenever a person no longer is eligible to be issued 40942
international association of firefighters license plates, the 40943
person shall surrender the international association of 40944
firefighters license plates to the bureau in exchange for license 40945
plates without the Maltese cross emblem described in this section. 40946
A fee of five dollars shall be charged for the services required 40947
in the issuing of replacement plates when a person no longer is 40948
eligible to be issued international association of firefighters 40949
license plates. 40950

A person may make application for international association 40951
of firefighters license plates at any time of year, and the 40952
registrar shall issue international association of firefighters 40953
license plates and replacement plates at any time of year. 40954

(B) No person who is not a member in good standing of the 40955
international association of firefighters shall willfully and 40956
falsely represent that the person is a member in good standing of 40957
the international association of firefighters for the purpose of 40958
obtaining international association of firefighters license plates 40959
under this section. No person shall own or lease a vehicle bearing 40960
international association of firefighters license plates unless 40961
the person is eligible to be issued international association of 40962
firefighters license plates. 40963

(C) Whoever violates division (B) of this section is guilty 40964
of a misdemeanor of the fourth degree. 40965

Sec. 4503.48. Any person who is a member of the Ohio national 40966
guard or the reserves of the armed forces of the United States may 40967
apply to the registrar of motor vehicles for the registration of 40968

any passenger car, noncommercial motor vehicle, ~~motor home~~ 40969
recreational vehicle, or other vehicle of a class approved by the 40970
registrar that the person owns or leases. The application shall be 40971
accompanied by such written evidence that the person is a member 40972
of the Ohio national guard or of the reserves as the registrar 40973
requires by rule. 40974

Upon receipt of an application for registration of a motor 40975
vehicle under this section, presentation of satisfactory evidence 40976
of membership in the Ohio national guard or the reserves, and 40977
payment of the regular license fees as prescribed under section 40978
4503.04 of the Revised Code and any local motor vehicle license 40979
tax levied under Chapter 4504. of the Revised Code, the registrar 40980
shall issue to the applicant the appropriate motor vehicle 40981
registration and a set of license plates and a validation sticker, 40982
or a validation sticker alone when required by section 4503.191 of 40983
the Revised Code. In addition to the letters and numbers 40984
ordinarily inscribed thereon, the license plates shall be 40985
inscribed with identifying words or markings designed by the 40986
department of public safety. The license plates shall bear county 40987
identification stickers that identify the county of registration 40988
by name or number. 40989

Sec. 4503.50. (A) The owner or lessee of any passenger car, 40990
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 40991
other vehicle of a class approved by the registrar of motor 40992
vehicles may apply to the registrar for the registration of the 40993
vehicle and issuance of future farmers of America license plates. 40994
The application for future farmers of America license plates may 40995
be combined with a request for a special reserved license plate 40996
under section 4503.40 or 4503.42 of the Revised Code. Upon receipt 40997
of the completed application and compliance with division (B) of 40998
this section, the registrar shall issue to the applicant the 40999
appropriate vehicle registration and a set of future farmers of 41000

America license plates with a validation sticker or a validation
sticker alone when required by section 4503.191 of the Revised
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In addition to the letters and numbers ordinarily inscribed
on the license plates, future farmers of America license plates
shall be inscribed with identifying words or markings representing
the future farmers of America and approved by the registrar. 41004
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Future farmers of America license plates shall bear county
identification stickers that identify the county of registration
by name or number. 41008
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(B) The future farmers of America license plates and
validation sticker shall be issued upon receipt of a contribution
as provided in division (C) of this section and upon payment of
the regular license tax as prescribed under section 4503.04 of the
Revised Code, a fee of ten dollars for the purpose of compensating
the bureau of motor vehicles for additional services required in
the issuing of the future farmers of America license plates, any
applicable motor vehicle tax levied under Chapter 4504. of the
Revised Code, and compliance with all other applicable laws
relating to the registration of motor vehicles. If the application
for future farmers of America license plates is combined with a
request for a special reserved license plate under section 4503.40
or 4503.42 of the Revised Code, the license plate and validation
sticker shall be issued upon payment of the contribution, fees,
and taxes referred to or established in this division and the
additional fee prescribed under section 4503.40 or 4503.42 of the
Revised Code. 41011
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(C) For each application for registration and registration
renewal the registrar receives under this section, the registrar
shall collect a contribution of fifteen dollars. The registrar
shall transmit this contribution to the treasurer of state for
deposit in the license plate contribution fund created in section
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4501.21 of the Revised Code.

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The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration pays for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's future farmers of America license plates in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

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Sec. 4503.53. Any person who served in the armed forces of the United States in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and who is on active duty or is an honorably discharged veteran may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar the person owns or leases. The application shall be accompanied by such written evidence of the applicant's service as the registrar requires by rule. In the case of an honorably discharged veteran, the written evidence shall include a copy of the applicant's DD-214 form or an equivalent document.

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Upon receipt of an application for registration of a motor vehicle under this section, presentation of satisfactory evidence of military service in Saudi Arabia or Kuwait during Operation Desert Storm or Operation Desert Shield, in Panama during the invasion, in Grenada during the invasion, in Lebanon during the invasion, during the Vietnam conflict, during the Korean conflict, during World War II, or during World War I, and payment of the regular license tax as prescribed under section 4503.04 of the

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Revised Code and any applicable local tax levied under Chapter 41064
4504. of the Revised Code, the registrar shall issue to the 41065
applicant the appropriate motor vehicle registration and a set of 41066
license plates and a validation sticker, or a validation sticker 41067
alone when required by section 4503.191 of the Revised Code. In 41068
accordance with rules adopted by the registrar, each license plate 41069
shall be inscribed with identifying letters or numerals and the 41070
word "VETERAN"; in addition, each license plate shall be inscribed 41071
with a design and words indicating service in Saudi Arabia, 41072
Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam 41073
conflict, the Korean conflict, World War II, or World War I. 41074

Sec. 4503.571. Any person who has been awarded the purple 41075
heart may apply to the registrar of motor vehicles for the 41076
registration of any passenger car, noncommercial motor vehicle, 41077
~~motor home~~ recreational vehicle, or other vehicle of a class 41078
approved by the registrar that the person owns or leases. The 41079
application shall be accompanied by such documentary evidence in 41080
support of the award as the registrar may require. The application 41081
may be combined with a request for a special reserved license 41082
plate under section 4503.40 or 4503.42 of the Revised Code. 41083

Upon receipt of an application for registration of a motor 41084
vehicle under this section and the required taxes and fees, and 41085
upon presentation of the required supporting evidence of the award 41086
of the purple heart, the registrar shall issue to the applicant 41087
the appropriate motor vehicle registration and a set of license 41088
plates and a validation sticker, or a validation sticker alone 41089
when required by section 4503.191 of the Revised Code. 41090

In addition to the letters and numbers ordinarily inscribed 41091
on the license plates, the license plates shall be inscribed with 41092
the words "PURPLE HEART." The license plates shall bear county 41093
identification stickers that identify the county of registration 41094

by name or number.

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The license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes referred to in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

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No person who is not a recipient of the purple heart shall willfully and falsely represent that the person is a recipient of a purple heart for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates under this section unless the person is eligible to be issued those license plates.

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Sec. 4503.59. The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is certified by the Pearl Harbor survivors association as having survived the attack on Pearl Harbor may apply to the registrar for the registration of the vehicle and issuance of Pearl Harbor license plates. The application for Pearl Harbor license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of documentation issued by the Pearl Harbor survivors association certifying that the applicant survived the attack on Pearl Harbor, and compliance by the

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applicant with this section, the registrar shall issue to the 41126
applicant the appropriate vehicle registration and a set of Pearl 41127
Harbor license plates with a validation sticker or a validation 41128
sticker alone when required by section 4503.191 of the Revised 41129
Code. 41130

In addition to the letters and numbers ordinarily inscribed 41131
thereon, Pearl Harbor license plates shall be inscribed with the 41132
words "Pearl Harbor" and a symbol or logo designed by the Pearl 41133
Harbor survivors association and approved by the registrar. Pearl 41134
Harbor license plates shall bear county identification stickers 41135
that identify the county of registration by name or number. 41136

Pearl Harbor license plates and validation stickers shall be 41137
issued upon payment of the regular license fee required by section 41138
4503.04 of the Revised Code, payment of any local motor vehicle 41139
license tax levied under Chapter 4504. of the Revised Code, and 41140
compliance with all other applicable laws relating to the 41141
registration of motor vehicles. If the application for Pearl 41142
Harbor license plates is combined with a request for a special 41143
reserved license plate under section 4503.40 or 4503.42 of the 41144
Revised Code, the license plates and validation sticker shall be 41145
issued upon payment of the fees and taxes contained in this 41146
section and the additional fee prescribed under section 4503.40 or 41147
4503.42 of the Revised Code. 41148

Sec. 4503.73. (A) The owner or lessee of any passenger car, 41149
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 41150
other vehicle of a class approved by the registrar of motor 41151
vehicles may apply to the registrar for the registration of the 41152
vehicle and issuance of "the leader in flight" license plates. The 41153
application for "the leader in flight" license plates may be 41154
combined with a request for a special reserved license plate under 41155
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 41156

the completed application and compliance with division (B) of this 41157
section, the registrar shall issue to the applicant the 41158
appropriate vehicle registration and a set of "the leader in 41159
flight" license plates with a validation sticker or a validation 41160
sticker alone when required by section 4503.191 of the Revised 41161
Code. 41162

In addition to the letters and numbers ordinarily inscribed 41163
thereon, "the leader in flight" license plates shall be inscribed 41164
with the words "the leader in flight" and illustrations of a space 41165
shuttle in a vertical position and the Wright "B" airplane. "The 41166
leader in flight" license plates shall bear county identification 41167
stickers that identify the county of registration by name or 41168
number. 41169

(B) "The leader in flight" license plates and validation 41170
sticker shall be issued upon receipt of a contribution as provided 41171
in division (C) of this section and payment of the regular license 41172
tax as prescribed under section 4503.04 of the Revised Code, a fee 41173
of ten dollars for the purpose of compensating the bureau of motor 41174
vehicles for additional services required in the issuing of "the 41175
leader in flight" license plates, any applicable motor vehicle tax 41176
levied under Chapter 4504. of the Revised Code, and compliance 41177
with all other applicable laws relating to the registration of 41178
motor vehicles. If the application for "the leader in flight" 41179
license plates is combined with a request for a special reserved 41180
license plate under section 4503.40 or 4503.42 of the Revised 41181
Code, the license plate and validation sticker shall be issued 41182
upon payment of the fees and taxes referred to or established in 41183
this division and the additional fee prescribed under section 41184
4503.40 or 4503.42 of the Revised Code. 41185

(C) For each application for registration and registration 41186
renewal received under this section, the registrar shall collect a 41187
contribution of fifteen dollars. The registrar shall transmit this 41188

contribution to the treasurer of state for deposit in the license
plate contribution fund created in section 4501.21 of the Revised
Code. 41189
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The registrar shall deposit the additional fee of ten dollars
specified in division (B) of this section that the applicant for
registration voluntarily pays for the purpose of compensating the
bureau for the additional services required in the issuing of the
applicant's "the leader in flight" license plates in the state
bureau of motor vehicles fund created in section 4501.25 of the
Revised Code. 41192
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Sec. 4503.85. (A) The owner or lessee of any passenger car,
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or
other vehicle of a class approved by the registrar of motor
vehicles may apply to the registrar for the registration of the
vehicle and issuance of "Fish Lake Erie" license plates. The
application for "Fish Lake Erie" license plates may be combined
with a request for a special reserved license plate under section
4503.40 or 4503.42 of the Revised Code. Upon receipt of the
completed application and compliance with division (B) of this
section, the registrar shall issue to the applicant the
appropriate vehicle registration, a set of "Fish Lake Erie"
license plates, and a validation sticker, or a validation sticker
alone when required by section 4503.191 of the Revised Code. 41199
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In addition to the letters and numbers ordinarily inscribed
on the license plates, "Fish Lake Erie" license plates shall be
inscribed with identifying words or markings designed by the Ohio
sea grant college program and approved by the registrar. "Fish
Lake Erie" license plates shall bear county identification
stickers that identify the county of registration by name or
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(B) "Fish Lake Erie" license plates and a validation sticker 41219

or, when applicable, a validation sticker alone shall be issued 41220
upon receipt of an application for registration of a motor vehicle 41221
submitted under this section and a contribution as provided in 41222
division (C) of this section, payment of the regular license tax 41223
as prescribed under section 4503.04 of the Revised Code, any 41224
applicable motor vehicle tax levied under Chapter 4504. of the 41225
Revised Code, and an additional fee of ten dollars, and compliance 41226
with all other applicable laws relating to the registration of 41227
motor vehicles. If the application for "Fish Lake Erie" license 41228
plates is combined with a request for a special reserved license 41229
plate under section 4503.40 or 4503.42 of the Revised Code, the 41230
license plates and validation sticker or validation sticker alone 41231
shall be issued upon payment of the fees and taxes referred to or 41232
established in this division plus the additional fee prescribed in 41233
section 4503.40 or 4503.42 of the Revised Code. 41234

(C) For each application for registration and registration 41235
renewal that the registrar receives under this section, the 41236
registrar shall collect a contribution of fifteen dollars. The 41237
registrar shall deposit this contribution into the state treasury 41238
to the credit of the license plate contribution fund created in 41239
section 4501.21 of the Revised Code. 41240

The additional fee of ten dollars described in division (B) 41241
of this section shall be for the purpose of compensating the 41242
bureau of motor vehicles for additional services required in 41243
issuing license plates under this section. The registrar shall 41244
deposit that fee into the state treasury to the credit of the 41245
state bureau of motor vehicles fund created by section 4501.25 of 41246
the Revised Code. 41247

Sec. 4503.91. (A) The owner or lessee of any passenger car, 41248
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 41249
other vehicle of a class approved by the registrar of motor 41250

vehicles may apply to the registrar for the registration of the 41251
vehicle and issuance of "choose life" license plates. The 41252
application for "choose life" license plates may be combined with 41253
a request for a special reserved license plate under section 41254
4503.40 or 4503.42 of the Revised Code. Upon receipt of the 41255
completed application and compliance with divisions (B) and (C) of 41256
this section, the registrar shall issue to the applicant the 41257
appropriate vehicle registration and a set of "choose life" 41258
license plates with a validation sticker or a validation sticker 41259
alone when required by section 4503.191 of the Revised Code. 41260

In addition to the letters and numbers ordinarily inscribed 41261
on license plates, "choose life" license plates shall be inscribed 41262
with the words "choose life" and a marking designed by "choose 41263
life, inc.," a private, nonprofit corporation incorporated in the 41264
state of Florida. The registrar shall review the design and 41265
approve it if the design is feasible. If the design is not 41266
feasible, the registrar shall notify "choose life, inc," and the 41267
organization may resubmit designs until a feasible one is 41268
approved. "Choose life" license plates shall bear county 41269
identification stickers that identify the county of registration 41270
by name or number. 41271

(B) "Choose life" license plates and a validation sticker, or 41272
a validation sticker alone, shall be issued upon receipt of a 41273
contribution as provided in division (C) of this section and upon 41274
payment of the regular license tax prescribed in section 4503.04 41275
of the Revised Code, any applicable motor vehicle tax levied under 41276
Chapter 4504. of the Revised Code, any applicable additional fee 41277
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 41278
fee of ten dollars for the purpose of compensating the bureau of 41279
motor vehicles for additional services required in the issuing of 41280
"choose life" license plates, and compliance with all other 41281
applicable laws relating to the registration of motor vehicles. 41282

(C)(1) For each application for registration and registration 41283
renewal received under this section, the registrar shall collect a 41284
contribution of twenty dollars. The registrar shall transmit this 41285
contribution to the treasurer of state for deposit in the "choose 41286
life" fund created in section 3701.65 of the Revised Code. 41287

(2) The registrar shall deposit the additional fee of ten 41288
dollars specified in division (B) of this section for the purpose 41289
of compensating the bureau for the additional services required in 41290
issuing "choose life" license plates in the state bureau of motor 41291
vehicles fund created in section 4501.25 of the Revised Code. 41292

Sec. 4505.06. (A)(1) Application for a certificate of title 41293
shall be made in a form prescribed by the registrar of motor 41294
vehicles and shall be sworn to before a notary public or other 41295
officer empowered to administer oaths. The application shall be 41296
filed with the clerk of any court of common pleas. An application 41297
for a certificate of title may be filed electronically by any 41298
electronic means approved by the registrar in any county with the 41299
clerk of the court of common pleas of that county. Any payments 41300
required by this chapter shall be considered as accompanying any 41301
electronically transmitted application when payment actually is 41302
received by the clerk. Payment of any fee or taxes may be made by 41303
electronic transfer of funds. 41304

(2) The application for a certificate of title shall be 41305
accompanied by the fee prescribed in section 4505.09 of the 41306
Revised Code. The fee shall be retained by the clerk who issues 41307
the certificate of title and shall be distributed in accordance 41308
with that section. If a clerk of a court of common pleas, other 41309
than the clerk of the court of common pleas of an applicant's 41310
county of residence, issues a certificate of title to the 41311
applicant, the clerk shall transmit data related to the 41312
transaction to the automated title processing system. 41313

(3) If a certificate of title previously has been issued for 41314
a motor vehicle in this state, the application for a certificate 41315
of title also shall be accompanied by that certificate of title 41316
duly assigned, unless otherwise provided in this chapter. If a 41317
certificate of title previously has not been issued for the motor 41318
vehicle in this state, the application, unless otherwise provided 41319
in this chapter, shall be accompanied by a manufacturer's or 41320
importer's certificate or by a certificate of title of another 41321
state from which the motor vehicle was brought into this state. If 41322
the application refers to a motor vehicle last previously 41323
registered in another state, the application also shall be 41324
accompanied by the physical inspection certificate required by 41325
section 4505.061 of the Revised Code. If the application is made 41326
by two persons regarding a motor vehicle in which they wish to 41327
establish joint ownership with right of survivorship, they may do 41328
so as provided in section 2131.12 of the Revised Code. If the 41329
applicant requests a designation of the motor vehicle in 41330
beneficiary form so that upon the death of the owner of the motor 41331
vehicle, ownership of the motor vehicle will pass to a designated 41332
transfer-on-death beneficiary or beneficiaries, the applicant may 41333
do so as provided in section 2131.13 of the Revised Code. A person 41334
who establishes ownership of a motor vehicle that is transferable 41335
on death in accordance with section 2131.13 of the Revised Code 41336
may terminate that type of ownership or change the designation of 41337
the transfer-on-death beneficiary or beneficiaries by applying for 41338
a certificate of title pursuant to this section. The clerk shall 41339
retain the evidence of title presented by the applicant and on 41340
which the certificate of title is issued, except that, if an 41341
application for a certificate of title is filed electronically by 41342
an electronic motor vehicle dealer on behalf of the purchaser of a 41343
motor vehicle, the clerk shall retain the completed electronic 41344
record to which the dealer converted the certificate of title 41345
application and other required documents. The registrar, after 41346

consultation with the attorney general, shall adopt rules that 41347
govern the location at which, and the manner in which, are stored 41348
the actual application and all other documents relating to the 41349
sale of a motor vehicle when an electronic motor vehicle dealer 41350
files the application for a certificate of title electronically on 41351
behalf of the purchaser. 41352

The clerk shall use reasonable diligence in ascertaining 41353
whether or not the facts in the application for a certificate of 41354
title are true by checking the application and documents 41355
accompanying it or the electronic record to which a dealer 41356
converted the application and accompanying documents with the 41357
records of motor vehicles in the clerk's office. If the clerk is 41358
satisfied that the applicant is the owner of the motor vehicle and 41359
that the application is in the proper form, the clerk, within five 41360
business days after the application is filed and except as 41361
provided in section 4505.021 of the Revised Code, shall issue a 41362
physical certificate of title over the clerk's signature and 41363
sealed with the clerk's seal, unless the applicant specifically 41364
requests the clerk not to issue a physical certificate of title 41365
and instead to issue an electronic certificate of title. For 41366
purposes of the transfer of a certificate of title, if the clerk 41367
is satisfied that the secured party has duly discharged a lien 41368
notation but has not canceled the lien notation with a clerk, the 41369
clerk may cancel the lien notation on the automated title 41370
processing system and notify the clerk of the county of origin. 41371

(4) In the case of the sale of a motor vehicle to a general 41372
buyer or user by a dealer, by a motor vehicle leasing dealer 41373
selling the motor vehicle to the lessee or, in a case in which the 41374
leasing dealer subleased the motor vehicle, the sublessee, at the 41375
end of the lease agreement or sublease agreement, or by a 41376
manufactured home broker, the certificate of title shall be 41377
obtained in the name of the buyer by the dealer, leasing dealer, 41378

or manufactured home broker, as the case may be, upon application 41379
signed by the buyer. The certificate of title shall be issued, or 41380
the process of entering the certificate of title application 41381
information into the automated title processing system if a 41382
physical certificate of title is not to be issued shall be 41383
completed, within five business days after the application for 41384
title is filed with the clerk. If the buyer of the motor vehicle 41385
previously leased the motor vehicle and is buying the motor 41386
vehicle at the end of the lease pursuant to that lease, the 41387
certificate of title shall be obtained in the name of the buyer by 41388
the motor vehicle leasing dealer who previously leased the motor 41389
vehicle to the buyer or by the motor vehicle leasing dealer who 41390
subleased the motor vehicle to the buyer under a sublease 41391
agreement. 41392

In all other cases, except as provided in section 4505.032 41393
and division (D)(2) of section 4505.11 of the Revised Code, such 41394
certificates shall be obtained by the buyer. 41395

(5)(a)(i) If the certificate of title is being obtained in 41396
the name of the buyer by a motor vehicle dealer or motor vehicle 41397
leasing dealer and there is a security interest to be noted on the 41398
certificate of title, the dealer or leasing dealer shall submit 41399
the application for the certificate of title and payment of the 41400
applicable tax to a clerk within seven business days after the 41401
later of the delivery of the motor vehicle to the buyer or the 41402
date the dealer or leasing dealer obtains the manufacturer's or 41403
importer's certificate, or certificate of title issued in the name 41404
of the dealer or leasing dealer, for the motor vehicle. Submission 41405
of the application for the certificate of title and payment of the 41406
applicable tax within the required seven business days may be 41407
indicated by postmark or receipt by a clerk within that period. 41408

(ii) Upon receipt of the certificate of title with the 41409
security interest noted on its face, the dealer or leasing dealer 41410

shall forward the certificate of title to the secured party at the 41411
location noted in the financing documents or otherwise specified 41412
by the secured party. 41413

(iii) A motor vehicle dealer or motor vehicle leasing dealer 41414
is liable to a secured party for a late fee of ten dollars per day 41415
for each certificate of title application and payment of the 41416
applicable tax that is submitted to a clerk more than seven 41417
business days but less than twenty-one days after the later of the 41418
delivery of the motor vehicle to the buyer or the date the dealer 41419
or leasing dealer obtains the manufacturer's or importer's 41420
certificate, or certificate of title issued in the name of the 41421
dealer or leasing dealer, for the motor vehicle and, from then on, 41422
twenty-five dollars per day until the application and applicable 41423
tax are submitted to a clerk. 41424

(b) In all cases of transfer of a motor vehicle, the 41425
application for certificate of title shall be filed within thirty 41426
days after the assignment or delivery of the motor vehicle. If an 41427
application for a certificate of title is not filed within the 41428
period specified in division (A)(5)(b) of this section, the clerk 41429
shall collect a fee of five dollars for the issuance of the 41430
certificate, except that no such fee shall be required from a 41431
motor vehicle salvage dealer, as defined in division (A) of 41432
section 4738.01 of the Revised Code, who immediately surrenders 41433
the certificate of title for cancellation. The fee shall be in 41434
addition to all other fees established by this chapter, and shall 41435
be retained by the clerk. The registrar shall provide, on the 41436
certificate of title form prescribed by section 4505.07 of the 41437
Revised Code, language necessary to give evidence of the date on 41438
which the assignment or delivery of the motor vehicle was made. 41439

(6) As used in division (A) of this section, "lease 41440
agreement," "lessee," and "sublease agreement" have the same 41441
meanings as in section 4505.04 of the Revised Code. 41442

(B)(1) The clerk, except as provided in this section, shall 41443
refuse to accept for filing any application for a certificate of 41444
title and shall refuse to issue a certificate of title unless the 41445
dealer or manufactured home broker or the applicant, in cases in 41446
which the certificate shall be obtained by the buyer, submits with 41447
the application payment of the tax levied by or pursuant to 41448
Chapters 5739. and 5741. of the Revised Code based on the 41449
purchaser's county of residence. Upon payment of the tax in 41450
accordance with division (E) of this section, the clerk shall 41451
issue a receipt prescribed by the registrar and agreed upon by the 41452
tax commissioner showing payment of the tax or a receipt issued by 41453
the commissioner showing the payment of the tax. When submitting 41454
payment of the tax to the clerk, a dealer shall retain any 41455
discount to which the dealer is entitled under section 5739.12 of 41456
the Revised Code. 41457

(2) For receiving and disbursing such taxes paid to the clerk 41458
by a resident of the clerk's county, the clerk may retain a 41459
poundage fee of one and one one-hundredth per cent, and the clerk 41460
shall pay the poundage fee into the certificate of title 41461
administration fund created by section 325.33 of the Revised Code. 41462
The clerk shall not retain a poundage fee from payments of taxes 41463
by persons who do not reside in the clerk's county. 41464

A clerk, however, may retain from the taxes paid to the clerk 41465
an amount equal to the poundage fees associated with certificates 41466
of title issued by other clerks of courts of common pleas to 41467
applicants who reside in the first clerk's county. The registrar, 41468
in consultation with the tax commissioner and the clerks of the 41469
courts of common pleas, shall develop a report from the automated 41470
title processing system that informs each clerk of the amount of 41471
the poundage fees that the clerk is permitted to retain from those 41472
taxes because of certificates of title issued by the clerks of 41473
other counties to applicants who reside in the first clerk's 41474

county.

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(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

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(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

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(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter

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the phrase "nonactual: warning - odometer discrepancy" following 41507
the mileage designation. The clerk shall use reasonable care in 41508
transferring the information supplied by the transferor, but is 41509
not liable for any errors or omissions of the clerk or those of 41510
the clerk's deputies in the performance of the clerk's duties 41511
created by this chapter. 41512

The registrar shall prescribe an affidavit in which the 41513
transferor shall swear to the true selling price and, except as 41514
provided in this division, the true odometer reading of the motor 41515
vehicle. The registrar may prescribe an affidavit in which the 41516
seller and buyer provide information pertaining to the odometer 41517
reading of the motor vehicle in addition to that required by this 41518
section, as such information may be required by the United States 41519
secretary of transportation by rule prescribed under authority of 41520
subchapter IV of the "Motor Vehicle Information and Cost Savings 41521
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 41522

(2) Division (C)(1) of this section does not require the 41523
giving of information concerning the odometer and odometer reading 41524
of a motor vehicle when ownership of a motor vehicle is being 41525
transferred as a result of a bequest, under the laws of intestate 41526
succession, to a survivor pursuant to section 2106.18, 2131.12, or 41527
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 41528
beneficiaries pursuant to section 2131.13 of the Revised Code, in 41529
connection with the creation of a security interest or for a 41530
vehicle with a gross vehicle weight rating of more than sixteen 41531
thousand pounds. 41532

(D) When the transfer to the applicant was made in some other 41533
state or in interstate commerce, the clerk, except as provided in 41534
this section, shall refuse to issue any certificate of title 41535
unless the tax imposed by or pursuant to Chapter 5741. of the 41536
Revised Code based on the purchaser's county of residence has been 41537
paid as evidenced by a receipt issued by the tax commissioner, or 41538

unless the applicant submits with the application payment of the 41539
tax. Upon payment of the tax in accordance with division (E) of 41540
this section, the clerk shall issue a receipt prescribed by the 41541
registrar and agreed upon by the tax commissioner, showing payment 41542
of the tax. 41543

For receiving and disbursing such taxes paid to the clerk by 41544
a resident of the clerk's county, the clerk may retain a poundage 41545
fee of one and one one-hundredth per cent. The clerk shall not 41546
retain a poundage fee from payments of taxes by persons who do not 41547
reside in the clerk's county. 41548

A clerk, however, may retain from the taxes paid to the clerk 41549
an amount equal to the poundage fees associated with certificates 41550
of title issued by other clerks of courts of common pleas to 41551
applicants who reside in the first clerk's county. The registrar, 41552
in consultation with the tax commissioner and the clerks of the 41553
courts of common pleas, shall develop a report from the automated 41554
title processing system that informs each clerk of the amount of 41555
the poundage fees that the clerk is permitted to retain from those 41556
taxes because of certificates of title issued by the clerks of 41557
other counties to applicants who reside in the first clerk's 41558
county. 41559

When the vendor is not regularly engaged in the business of 41560
selling motor vehicles, the vendor shall not be required to 41561
purchase a vendor's license or make reports concerning those 41562
sales. 41563

(E) The clerk shall accept any payment of a tax in cash, or 41564
by cashier's check, certified check, draft, money order, or teller 41565
check issued by any insured financial institution payable to the 41566
clerk and submitted with an application for a certificate of title 41567
under division (B) or (D) of this section. The clerk also may 41568
accept payment of the tax by corporate, business, or personal 41569

check, credit card, electronic transfer or wire transfer, debit 41570
card, or any other accepted form of payment made payable to the 41571
clerk. The clerk may require bonds, guarantees, or letters of 41572
credit to ensure the collection of corporate, business, or 41573
personal checks. Any service fee charged by a third party to a 41574
clerk for the use of any form of payment may be paid by the clerk 41575
from the certificate of title administration fund created in 41576
section 325.33 of the Revised Code, or may be assessed by the 41577
clerk upon the applicant as an additional fee. Upon collection, 41578
the additional fees shall be paid by the clerk into that 41579
certificate of title administration fund. 41580

The clerk shall make a good faith effort to collect any 41581
payment of taxes due but not made because the payment was returned 41582
or dishonored, but the clerk is not personally liable for the 41583
payment of uncollected taxes or uncollected fees. The clerk shall 41584
notify the tax commissioner of any such payment of taxes that is 41585
due but not made and shall furnish the information to the 41586
commissioner that the commissioner requires. The clerk shall 41587
deduct the amount of taxes due but not paid from the clerk's 41588
periodic remittance of tax payments, in accordance with procedures 41589
agreed upon by the tax commissioner. The commissioner may collect 41590
taxes due by assessment in the manner provided in section 5739.13 41591
of the Revised Code. 41592

Any person who presents payment that is returned or 41593
dishonored for any reason is liable to the clerk for payment of a 41594
penalty over and above the amount of the taxes due. The clerk 41595
shall determine the amount of the penalty, and the penalty shall 41596
be no greater than that amount necessary to compensate the clerk 41597
for banking charges, legal fees, or other expenses incurred by the 41598
clerk in collecting the returned or dishonored payment. The 41599
remedies and procedures provided in this section are in addition 41600
to any other available civil or criminal remedies. Subsequently 41601

collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

~~The clerk shall forward all payments of taxes, less poundage~~

~~fees, to the treasurer of state in a manner to be prescribed by
the tax commissioner and shall furnish information to the
commissioner as the commissioner requires.~~

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the

Revised Code. The tax commissioner shall administer any tax on a
manufactured or mobile home pursuant to Chapters 5739. and 5741.
of the Revised Code.

(I) Every clerk shall have the capability to transact by
electronic means all procedures and transactions relating to the
issuance of motor vehicle certificates of title that are described
in the Revised Code as being accomplished by electronic means.

Sec. 4506.07. (A) Every application for a commercial driver's
license, restricted commercial driver's license, or a commercial
driver's temporary instruction permit, or a duplicate of such a
license, shall be made upon a form approved and furnished by the
registrar of motor vehicles. Except as provided in section 4506.24
of the Revised Code in regard to a restricted commercial driver's
license, the application shall be signed by the applicant and
shall contain the following information:

(1) The applicant's name, date of birth, social security
account number, sex, general description including height, weight,
and color of hair and eyes, current residence, duration of
residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to
operate a commercial motor vehicle or any other type of motor
vehicle in another state or a foreign jurisdiction and, if so,
when, by what state, and whether the license or driving privileges
currently are suspended or revoked in any jurisdiction, or the
applicant otherwise has been disqualified from operating a
commercial motor vehicle, or is subject to an out-of-service order
issued under this chapter or any similar law of another state or a
foreign jurisdiction and, if so, the date of, locations involved,
and reason for the suspension, revocation, disqualification, or
out-of-service order;

(3) Whether the applicant is afflicted with or suffering from 41694
any physical or mental disability or disease that prevents the 41695
applicant from exercising reasonable and ordinary control over a 41696
motor vehicle while operating it upon a highway or is or has been 41697
subject to any condition resulting in episodic impairment of 41698
consciousness or loss of muscular control and, if so, the nature 41699
and extent of the disability, disease, or condition, and the names 41700
and addresses of the physicians attending the applicant; 41701

(4) Whether the applicant has obtained a medical examiner's 41702
certificate as required by this chapter; 41703

(5) Whether the applicant has pending a citation for 41704
violation of any motor vehicle law or ordinance except a parking 41705
violation and, if so, a description of the citation, the court 41706
having jurisdiction of the offense, and the date when the offense 41707
occurred; 41708

(6) Whether the applicant wishes to certify willingness to 41709
make an anatomical donation under section 2108.04 of the Revised 41710
Code, which shall be given no consideration in the issuance of a 41711
license; 41712

(7) On and after May 1, 1993, whether the applicant has 41713
executed a valid durable power of attorney for health care 41714
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 41715
executed a declaration governing the use or continuation, or the 41716
withholding or withdrawal, of life-sustaining treatment pursuant 41717
to sections 2133.01 to 2133.15 of the Revised Code and, if the 41718
applicant has executed either type of instrument, whether the 41719
applicant wishes the license issued to indicate that the applicant 41720
has executed the instrument. 41721

(B) Every applicant shall certify, on a form approved and 41722
furnished by the registrar, all of the following: 41723

(1) That the motor vehicle in which the applicant intends to 41724

take the driving skills test is representative of the type of 41725
motor vehicle that the applicant expects to operate as a driver; 41726

(2) That the applicant is not subject to any disqualification 41727
or out-of-service order, or license suspension, revocation, or 41728
cancellation, under the laws of this state, of another state, or 41729
of a foreign jurisdiction and does not have more than one driver's 41730
license issued by this or another state or a foreign jurisdiction; 41731

(3) Any additional information, certification, or evidence 41732
that the registrar requires by rule in order to ensure that the 41733
issuance of a commercial driver's license to the applicant is in 41734
compliance with the law of this state and with federal law. 41735

(C) Every applicant shall execute a form, approved and 41736
furnished by the registrar, under which the applicant consents to 41737
the release by the registrar of information from the applicant's 41738
driving record. 41739

(D) The registrar or a deputy registrar, in accordance with 41740
section 3503.11 of the Revised Code, shall register as an elector 41741
any applicant for a commercial driver's license or for a renewal 41742
or duplicate of such a license under this chapter, if the 41743
applicant is eligible and wishes to be registered as an elector. 41744
The decision of an applicant whether to register as an elector 41745
shall be given no consideration in the decision of whether to 41746
issue the applicant a license or a renewal or duplicate. 41747

(E) The registrar or a deputy registrar, in accordance with 41748
section 3503.11 of the Revised Code, shall offer the opportunity 41749
of completing a notice of change of residence or change of name to 41750
any applicant for a commercial driver's license or for a renewal 41751
or duplicate of such a license who is a resident of this state, if 41752
the applicant is a registered elector who has changed the 41753
applicant's residence or name and has not filed such a notice. 41754

(F) In considering any application submitted pursuant to this 41755

section, the bureau of motor vehicles may conduct any inquiries 41756
necessary to ensure that issuance or renewal of a commercial 41757
driver's license would not violate any provision of the Revised 41758
Code or federal law. 41759

Sec. 4506.101. Notwithstanding any provision of the Revised 41760
Code, the bureau of motor vehicles shall not issue or renew a 41761
commercial driver's license if issuance or renewal of the license 41762
would violate federal law. 41763

Sec. 4506.161. No court shall issue an order granting limited 41764
driving privileges for operation of a commercial motor vehicle to 41765
any person whose driver's license or commercial driver's license 41766
has been suspended or who has been disqualified from operating a 41767
commercial motor vehicle. 41768

Sec. 4511.191. (A)(1) "Physical control" has the same meaning 41769
as in section 4511.194 of the Revised Code. 41770

(2) Any person who operates a vehicle, streetcar, or 41771
trackless trolley upon a highway or any public or private property 41772
used by the public for vehicular travel or parking within this 41773
state or who is in physical control of a vehicle, streetcar, or 41774
trackless trolley shall be deemed to have given consent to a 41775
chemical test or tests of the person's whole blood, blood serum or 41776
plasma, breath, or urine to determine the alcohol, drug, or 41777
alcohol and drug content of the person's whole blood, blood serum 41778
or plasma, breath, or urine if arrested for a violation of 41779
division (A) or (B) of section 4511.19 of the Revised Code, 41780
section 4511.194 of the Revised Code or a substantially equivalent 41781
municipal ordinance, or a municipal OVI ordinance. 41782

(3) The chemical test or tests under division (A)(2) of this 41783
section shall be administered at the request of a law enforcement 41784

officer having reasonable grounds to believe the person was 41785
operating or in physical control of a vehicle, streetcar, or 41786
trackless trolley in violation of a division, section, or 41787
ordinance identified in division (A)(2) of this section. The law 41788
enforcement agency by which the officer is employed shall 41789
designate which of the tests shall be administered. 41790

(4) Any person who is dead or unconscious, or who otherwise 41791
is in a condition rendering the person incapable of refusal, shall 41792
be deemed to have consented as provided in division (A)(2) of this 41793
section, and the test or tests may be administered, subject to 41794
sections 313.12 to 313.16 of the Revised Code. 41795

(B)(1) Upon receipt of the sworn report of a law enforcement 41796
officer who arrested a person for a violation of division (A) or 41797
(B) of section 4511.19 of the Revised Code, section 4511.194 of 41798
the Revised Code or a substantially equivalent municipal 41799
ordinance, or a municipal OVI ordinance that was completed and 41800
sent to the registrar and a court pursuant to section 4511.192 of 41801
the Revised Code in regard to a person who refused to take the 41802
designated chemical test, the registrar shall enter into the 41803
registrar's records the fact that the person's driver's or 41804
commercial driver's license or permit or nonresident operating 41805
privilege was suspended by the arresting officer under this 41806
division and that section and the period of the suspension, as 41807
determined under this section. The suspension shall be subject to 41808
appeal as provided in section 4511.197 of the Revised Code. The 41809
suspension shall be for whichever of the following periods 41810
applies: 41811

(a) Except when division (B)(1)(b), (c), or (d) of this 41812
section applies and specifies a different class or length of 41813
suspension, the suspension shall be a class C suspension for the 41814
period of time specified in division (B)(3) of section 4510.02 of 41815
the Revised Code. 41816

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the

Revised Code for a violation of a municipal OVI ordinance, any 41848
time during which the person serves a related suspension imposed 41849
pursuant to division (B)(1) of this section. 41850

(C)(1) Upon receipt of the sworn report of the law 41851
enforcement officer who arrested a person for a violation of 41852
division (A) or (B) of section 4511.19 of the Revised Code or a 41853
municipal OVI ordinance that was completed and sent to the 41854
registrar and a court pursuant to section 4511.192 of the Revised 41855
Code in regard to a person whose test results indicate that the 41856
person's whole blood, blood serum or plasma, breath, or urine 41857
contained at least the concentration of alcohol specified in 41858
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 41859
Revised Code, the registrar shall enter into the registrar's 41860
records the fact that the person's driver's or commercial driver's 41861
license or permit or nonresident operating privilege was suspended 41862
by the arresting officer under this division and section 4511.192 41863
of the Revised Code and the period of the suspension, as 41864
determined under divisions (F)(1) to (4) of this section. The 41865
suspension shall be subject to appeal as provided in section 41866
4511.197 of the Revised Code. The suspension described in this 41867
division does not apply to, and shall not be imposed upon, a 41868
person arrested for a violation of section 4511.194 of the Revised 41869
Code or a substantially equivalent municipal ordinance who submits 41870
to a designated chemical test. The suspension shall be for 41871
whichever of the following periods applies: 41872

(a) Except when division (C)(1)(b), (c), or (d) of this 41873
section applies and specifies a different period, the suspension 41874
shall be a class E suspension imposed for the period of time 41875
specified in division (B)(5) of section 4510.02 of the Revised 41876
Code. 41877

(b) The suspension shall be a class C suspension for the 41878
period of time specified in division (B)(3) of section 4510.02 of 41879

the Revised Code if the person has been convicted of or pleaded
guilty to, within six years of the date the test was conducted,
one violation of division (A) or (B) of section 4511.19 of the
Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted,
the person has been convicted of or pleaded guilty to two
violations of a statute or ordinance described in division
(C)(1)(b) of this section, the suspension shall be a class B
suspension imposed for the period of time specified in division
(B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted,
the person has been convicted of or pleaded guilty to more than
two violations of a statute or ordinance described in division
(C)(1)(b) of this section, the suspension shall be a class A
suspension imposed for the period of time specified in division
(B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the
driver's or commercial driver's license or permit of a resident or
of the operating privilege of a nonresident, or a denial of a
driver's or commercial driver's license or permit, imposed
pursuant to division (C)(1) of this section upon receipt of notice
that the person has entered a plea of guilty to, or that the
person has been convicted after entering a plea of no contest to,
operating a vehicle in violation of section 4511.19 of the Revised
Code or in violation of a municipal OVI ordinance, if the offense
for which the conviction is had or the plea is entered arose from
the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of
a person's driver's or commercial driver's license or permit or
nonresident operating privilege imposed pursuant to section
4511.19 of the Revised Code, or pursuant to section 4510.07 of the

Revised Code for a violation of a municipal OVI ordinance, any
time during which the person serves a related suspension imposed
pursuant to division (C)(1) of this section.

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(D)(1) A suspension of a person's driver's or commercial
driver's license or permit or nonresident operating privilege
under this section for the time described in division (B) or (C)
of this section is effective immediately from the time at which
the arresting officer serves the notice of suspension upon the
arrested person. Any subsequent finding that the person is not
guilty of the charge that resulted in the person being requested
to take the chemical test or tests under division (A) of this
section does not affect the suspension.

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(2) If a person is arrested for operating a vehicle,
streetcar, or trackless trolley in violation of division (A) or
(B) of section 4511.19 of the Revised Code or a municipal OVI
ordinance, or for being in physical control of a vehicle,
streetcar, or trackless trolley in violation of section 4511.194
of the Revised Code or a substantially equivalent municipal
ordinance, regardless of whether the person's driver's or
commercial driver's license or permit or nonresident operating
privilege is or is not suspended under division (B) or (C) of this
section or Chapter 4510. of the Revised Code, the person's initial
appearance on the charge resulting from the arrest shall be held
within five days of the person's arrest or the issuance of the
citation to the person, subject to any continuance granted by the
court pursuant to section 4511.197 of the Revised Code regarding
the issues specified in that division.

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(E) When it finally has been determined under the procedures
of this section and sections 4511.192 ~~through~~ to 4511.197 of the
Revised Code that a nonresident's privilege to operate a vehicle
within this state has been suspended, the registrar shall give
information in writing of the action taken to the motor vehicle

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administrator of the state of the person's residence and of any 41943
state in which the person has a license. 41944

(F) At the end of a suspension period under this section, 41945
under section 4511.194, section 4511.196, or division (G) of 41946
section 4511.19 of the Revised Code, or under section 4510.07 of 41947
the Revised Code for a violation of a municipal OVI ordinance and 41948
upon the request of the person whose driver's or commercial 41949
driver's license or permit was suspended and who is not otherwise 41950
subject to suspension, cancellation, or disqualification, the 41951
registrar shall return the driver's or commercial driver's license 41952
or permit to the person upon the occurrence of all of the 41953
conditions specified in divisions (F)(1) and (2) of this section: 41954

(1) A showing that the person has proof of financial 41955
responsibility, a policy of liability insurance in effect that 41956
meets the minimum standards set forth in section 4509.51 of the 41957
Revised Code, or proof, to the satisfaction of the registrar, that 41958
the person is able to respond in damages in an amount at least 41959
equal to the minimum amounts specified in section 4509.51 of the 41960
Revised Code. 41961

(2) Subject to the limitation contained in division (F)(3) of 41962
this section, payment by the person to the bureau of motor 41963
vehicles of a license reinstatement fee of four hundred 41964
twenty-five dollars, which fee shall be deposited in the state 41965
treasury and credited as follows: 41966

(a) One hundred twelve dollars and fifty cents shall be 41967
credited to the statewide treatment and prevention fund created by 41968
section 4301.30 of the Revised Code. The fund shall be used to pay 41969
the costs of driver treatment and intervention programs operated 41970
pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 41971
director of alcohol and drug addiction services shall determine 41972
the share of the fund that is to be allocated to alcohol and drug 41973
addiction programs authorized by section 3793.02 of the Revised 41974

Code, and the share of the fund that is to be allocated to 41975
drivers' intervention programs authorized by section 3793.10 of 41976
the Revised Code. 41977

(b) Seventy-five dollars shall be credited to the reparations 41978
fund created by section 2743.191 of the Revised Code. 41979

(c) Thirty-seven dollars and fifty cents shall be credited to 41980
the indigent drivers alcohol treatment fund, which is hereby 41981
established. Except as otherwise provided in division (F)(2)(c) of 41982
this section, moneys in the fund shall be distributed by the 41983
department of alcohol and drug addiction services to the county 41984
indigent drivers alcohol treatment funds, the county juvenile 41985
indigent drivers alcohol treatment funds, and the municipal 41986
indigent drivers alcohol treatment funds that are required to be 41987
established by counties and municipal corporations pursuant to 41988
this section, and shall be used only to pay the cost of an alcohol 41989
and drug addiction treatment program attended by an offender or 41990
juvenile traffic offender who is ordered to attend an alcohol and 41991
drug addiction treatment program by a county, juvenile, or 41992
municipal court judge and who is determined by the county, 41993
juvenile, or municipal court judge not to have the means to pay 41994
for the person's attendance at the program or to pay the costs 41995
specified in division (H)(4) of this section in accordance with 41996
that division. In addition, a county, juvenile, or municipal court 41997
judge may use moneys in the county indigent drivers alcohol 41998
treatment fund, county juvenile indigent drivers alcohol treatment 41999
fund, or municipal indigent drivers alcohol treatment fund to pay 42000
the cost of electronic continuous alcohol monitoring devices or 42001
the cost of the continued use of such devices as described in 42002
divisions (H)(3) and (4) of this section. Moneys in the fund that 42003
are not distributed to a county indigent drivers alcohol treatment 42004
fund, a county juvenile indigent drivers alcohol treatment fund, 42005
or a municipal indigent drivers alcohol treatment fund under 42006

division (H) of this section because the director of alcohol and 42007
drug addiction services does not have the information necessary to 42008
identify the county or municipal corporation where the offender or 42009
juvenile offender was arrested may be transferred by the director 42010
of budget and management to the statewide treatment and prevention 42011
fund created by section 4301.30 of the Revised Code, upon 42012
certification of the amount by the director of alcohol and drug 42013
addiction services. 42014

(d) Seventy-five dollars shall be credited to the Ohio 42015
rehabilitation services commission established by section 3304.12 42016
of the Revised Code, to the services for rehabilitation fund, 42017
which is hereby established. The fund shall be used to match 42018
available federal matching funds where appropriate, and for any 42019
other purpose or program of the commission to rehabilitate people 42020
with disabilities to help them become employed and independent. 42021

(e) Seventy-five dollars shall be deposited into the state 42022
treasury and credited to the drug abuse resistance education 42023
programs fund, which is hereby established, to be used by the 42024
attorney general for the purposes specified in division ~~(L)~~(F)(4) 42025
of this section. 42026

(f) Thirty dollars shall be credited to the state bureau of 42027
motor vehicles fund created by section 4501.25 of the Revised 42028
Code. 42029

(g) Twenty dollars shall be credited to the trauma and 42030
emergency medical services grants fund created by section 4513.263 42031
of the Revised Code. 42032

(3) If a person's driver's or commercial driver's license or 42033
permit is suspended under this section, under section 4511.196 or 42034
division (G) of section 4511.19 of the Revised Code, under section 42035
4510.07 of the Revised Code for a violation of a municipal OVI 42036
ordinance or under any combination of the suspensions described in 42037

division (F)(3) of this section, and if the suspensions arise from 42038
a single incident or a single set of facts and circumstances, the 42039
person is liable for payment of, and shall be required to pay to 42040
the bureau, only one reinstatement fee of four hundred twenty-five 42041
dollars. The reinstatement fee shall be distributed by the bureau 42042
in accordance with division (F)(2) of this section. 42043

(4) The attorney general shall use amounts in the drug abuse 42044
resistance education programs fund to award grants to law 42045
enforcement agencies to establish and implement drug abuse 42046
resistance education programs in public schools. Grants awarded to 42047
a law enforcement agency under this section shall be used by the 42048
agency to pay for not more than fifty per cent of the amount of 42049
the salaries of law enforcement officers who conduct drug abuse 42050
resistance education programs in public schools. The attorney 42051
general shall not use more than six per cent of the amounts the 42052
attorney general's office receives under division (F)(2)(e) of 42053
this section to pay the costs it incurs in administering the grant 42054
program established by division (F)(2)(e) of this section and in 42055
providing training and materials relating to drug abuse resistance 42056
education programs. 42057

The attorney general shall report to the governor and the 42058
general assembly each fiscal year on the progress made in 42059
establishing and implementing drug abuse resistance education 42060
programs. These reports shall include an evaluation of the 42061
effectiveness of these programs. 42062

(G) Suspension of a commercial driver's license under 42063
division (B) or (C) of this section shall be concurrent with any 42064
period of disqualification under section 3123.611 or 4506.16 of 42065
the Revised Code or any period of suspension under section 3123.58 42066
of the Revised Code. No person who is disqualified for life from 42067
holding a commercial driver's license under section 4506.16 of the 42068
Revised Code shall be issued a driver's license under Chapter 42069

4507. of the Revised Code during the period for which the 42070
commercial driver's license was suspended under division (B) or 42071
(C) of this section. No person whose commercial driver's license 42072
is suspended under division (B) or (C) of this section shall be 42073
issued a driver's license under Chapter 4507. of the Revised Code 42074
during the period of the suspension. 42075

(H)(1) Each county shall establish an indigent drivers 42076
alcohol treatment fund, each county shall establish a juvenile 42077
indigent drivers alcohol treatment fund, and each municipal 42078
corporation in which there is a municipal court shall establish an 42079
indigent drivers alcohol treatment fund. All revenue that the 42080
general assembly appropriates to the indigent drivers alcohol 42081
treatment fund for transfer to a county indigent drivers alcohol 42082
treatment fund, a county juvenile indigent drivers alcohol 42083
treatment fund, or a municipal indigent drivers alcohol treatment 42084
fund, all portions of fees that are paid under division ~~(L)~~(F) of 42085
this section and that are credited under that division to the 42086
indigent drivers alcohol treatment fund in the state treasury for 42087
a county indigent drivers alcohol treatment fund, a county 42088
juvenile indigent drivers alcohol treatment fund, or a municipal 42089
indigent drivers alcohol treatment fund, and all portions of fines 42090
that are specified for deposit into a county or municipal indigent 42091
drivers alcohol treatment fund by section 4511.193 of the Revised 42092
Code shall be deposited into that county indigent drivers alcohol 42093
treatment fund, county juvenile indigent drivers alcohol treatment 42094
fund, or municipal indigent drivers alcohol treatment fund in 42095
accordance with division (H)(2) of this section. Additionally, all 42096
portions of fines that are paid for a violation of section 4511.19 42097
of the Revised Code or of any prohibition contained in Chapter 42098
4510. of the Revised Code, and that are required under section 42099
4511.19 or any provision of Chapter 4510. of the Revised Code to 42100
be deposited into a county indigent drivers alcohol treatment fund 42101

or municipal indigent drivers alcohol treatment fund shall be 42102
deposited into the appropriate fund in accordance with the 42103
applicable division. 42104

(2) That portion of the license reinstatement fee that is 42105
paid under division (F) of this section and that is credited under 42106
that division to the indigent drivers alcohol treatment fund shall 42107
be deposited into a county indigent drivers alcohol treatment 42108
fund, a county juvenile indigent drivers alcohol treatment fund, 42109
or a municipal indigent drivers alcohol treatment fund as follows: 42110

(a) If the suspension in question was imposed under this 42111
section, that portion of the fee shall be deposited as follows: 42112

(i) If the fee is paid by a person who was charged in a 42113
county court with the violation that resulted in the suspension, 42114
the portion shall be deposited into the county indigent drivers 42115
alcohol treatment fund under the control of that court; 42116

(ii) If the fee is paid by a person who was charged in a 42117
juvenile court with the violation that resulted in the suspension, 42118
the portion shall be deposited into the county juvenile indigent 42119
drivers alcohol treatment fund established in the county served by 42120
the court; 42121

(iii) If the fee is paid by a person who was charged in a 42122
municipal court with the violation that resulted in the 42123
suspension, the portion shall be deposited into the municipal 42124
indigent drivers alcohol treatment fund under the control of that 42125
court. 42126

(b) If the suspension in question was imposed under section 42127
4511.19 of the Revised Code or under section 4510.07 of the 42128
Revised Code for a violation of a municipal OVI ordinance, that 42129
portion of the fee shall be deposited as follows: 42130

(i) If the fee is paid by a person whose license or permit 42131
was suspended by a county court, the portion shall be deposited 42132

into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A

reasonable amount not to exceed five per cent of the amounts 42165
credited to and deposited into the county indigent drivers alcohol 42166
treatment fund, the county juvenile indigent drivers alcohol 42167
treatment fund, or the municipal indigent drivers alcohol 42168
treatment fund serving every court whose program is administered 42169
by that board shall be paid to the board to cover the costs it 42170
incurs in administering those indigent drivers alcohol treatment 42171
programs. 42172

In addition, a county, juvenile, or municipal court judge may 42173
use moneys in the county indigent drivers alcohol treatment fund, 42174
county juvenile indigent drivers alcohol treatment fund, or 42175
municipal indigent drivers alcohol treatment fund to pay the cost 42176
of an electronic continuous alcohol monitoring device to be worn 42177
by the offender or juvenile traffic offender, or to pay for the 42178
continued use of such a device by an offender or juvenile traffic 42179
offender, in conjunction with a treatment program approved by the 42180
department of alcohol and drug addiction services, when such use 42181
is determined clinically necessary by the treatment program. 42182

(4) If a county, juvenile, or municipal court determines, in 42183
consultation with the alcohol and drug addiction services board or 42184
the board of alcohol, drug addiction, and mental health services 42185
established pursuant to section 340.02 or 340.021 of the Revised 42186
Code and serving the alcohol, drug addiction, and mental health 42187
district in which the court is located, that the funds in the 42188
county indigent drivers alcohol treatment fund, the county 42189
juvenile indigent drivers alcohol treatment fund, or the municipal 42190
indigent drivers alcohol treatment fund under the control of the 42191
court are more than sufficient to satisfy the purpose for which 42192
the fund was established, as specified in divisions (H)(1) to (3) 42193
of this section, the court may declare a surplus in the fund. If 42194
the court declares a surplus in the fund, the court may expend the 42195
amount of the surplus in the fund for ~~alcohol~~: 42196

(a) Alcohol and drug abuse assessment and treatment of 42197
persons who are charged in the court with committing a criminal 42198
offense or with being a delinquent child or juvenile traffic 42199
offender and in relation to whom both of the following apply: 42200

~~(a)~~(i) The court determines that substance abuse was a 42201
contributing factor leading to the criminal or delinquent activity 42202
or the juvenile traffic offense with which the person is charged. 42203

~~(b)~~(ii) The court determines that the person is unable to pay 42204
the cost of the alcohol and drug abuse assessment and treatment 42205
for which the surplus money will be used. 42206

(b) All or part of the cost of purchasing electronic 42207
continuous alcohol monitoring devices or all or part of the cost 42208
of the daily monitoring of such devices. 42209

(I) In any case in which an offender or juvenile traffic 42210
offender is required by the court to wear an electronic continuous 42211
alcohol monitoring device, the court may require the offender or 42212
juvenile traffic offender to pay for all or part of the cost of 42213
the daily monitoring of the device if the court determines that 42214
the offender or juvenile traffic offender is able to pay that 42215
amount. 42216

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 42217
trackless trolley upon meeting or overtaking from either direction 42218
any school bus stopped for the purpose of receiving or discharging 42219
any school child, person attending programs offered by community 42220
boards of mental health and county boards of mental retardation 42221
and developmental disabilities, or child attending a program 42222
offered by a head start agency, shall stop at least ten feet from 42223
the front or rear of the school bus and shall not proceed until 42224
such school bus resumes motion, or until signaled by the school 42225
bus driver to proceed. 42226

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, and an automatically extended stop warning sign of a type approved by the state board of education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. The driver of

any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section. 42259
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(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway. 42261
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(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road. 42268
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(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge. 42275
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(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to 42282
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deliver the license to the court, and the court or clerk of the
court immediately shall forward the license to the registrar of
motor vehicles, together with notice of the court's action.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in section
~~3301.31~~ 3301.32 of the Revised Code.

(2) "School bus," as used in relation to children who attend
a program offered by a head start agency, means a bus that is
owned and operated by a head start agency, is equipped with an
automatically extended stop warning sign of a type approved by the
state board of education, is painted the color and displays the
markings described in section 4511.77 of the Revised Code, and is
equipped with amber and red visual signals meeting the
requirements of section 4511.771 of the Revised Code, irrespective
of whether or not the bus has fifteen or more children aboard at
any time. "School bus" does not include a van owned and operated
by a head start agency, irrespective of its color, lights, or
markings.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the
Revised Code:

(A) "Persons" includes individuals, firms, partnerships,
associations, joint stock companies, corporations, and any
combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section
4501.01 of the Revised Code and also includes "all-purpose
vehicle" and "off-highway motorcycle" as those terms are defined
in section 4519.01 of the Revised Code and manufactured and mobile
homes. "Motor vehicle" does not include a snowmobile as defined in
section 4519.01 of the Revised Code.

(C) "New motor vehicle" means a motor vehicle, the legal

title to which has never been transferred by a manufacturer, 42320
remanufacturer, distributor, or dealer to an ultimate purchaser. 42321

(D) "Ultimate purchaser" means, with respect to any new motor 42322
vehicle, the first person, other than a dealer purchasing in the 42323
capacity of a dealer, who in good faith purchases such new motor 42324
vehicle for purposes other than resale. 42325

(E) "Business" includes any activities engaged in by any 42326
person for the object of gain, benefit, or advantage either direct 42327
or indirect. 42328

(F) "Engaging in business" means commencing, conducting, or 42329
continuing in business, or liquidating a business when the 42330
liquidator thereof holds self out to be conducting such business; 42331
making a casual sale or otherwise making transfers in the ordinary 42332
course of business when the transfers are made in connection with 42333
the disposition of all or substantially all of the transferor's 42334
assets is not engaging in business. 42335

(G) "Retail sale" or "sale at retail" means the act or 42336
attempted act of selling, bartering, exchanging, or otherwise 42337
disposing of a motor vehicle to an ultimate purchaser for use as a 42338
consumer. 42339

(H) "Retail installment contract" includes any contract in 42340
the form of a note, chattel mortgage, conditional sales contract, 42341
lease, agreement, or other instrument payable in one or more 42342
installments over a period of time and arising out of the retail 42343
sale of a motor vehicle. 42344

(I) "Farm machinery" means all machines and tools used in the 42345
production, harvesting, and care of farm products. 42346

(J) "Dealer" or "motor vehicle dealer" means any new motor 42347
vehicle dealer, any motor vehicle leasing dealer, and any used 42348
motor vehicle dealer. 42349

(K) "New motor vehicle dealer" means any person engaged in 42350
the business of selling at retail, displaying, offering for sale, 42351
or dealing in new motor vehicles pursuant to a contract or 42352
agreement entered into with the manufacturer, remanufacturer, or 42353
distributor of the motor vehicles. 42354

(L) "Used motor vehicle dealer" means any person engaged in 42355
the business of selling, displaying, offering for sale, or dealing 42356
in used motor vehicles, at retail or wholesale, but does not mean 42357
any new motor vehicle dealer selling, displaying, offering for 42358
sale, or dealing in used motor vehicles incidentally to engaging 42359
in the business of selling, displaying, offering for sale, or 42360
dealing in new motor vehicles, any person engaged in the business 42361
of dismantling, salvaging, or rebuilding motor vehicles by means 42362
of using used parts, or any public officer performing official 42363
duties. 42364

(M) "Motor vehicle leasing dealer" means any person engaged 42365
in the business of regularly making available, offering to make 42366
available, or arranging for another person to use a motor vehicle 42367
pursuant to a bailment, lease, sublease, or other contractual 42368
arrangement under which a charge is made for its use at a periodic 42369
rate for a term of thirty days or more, and title to the motor 42370
vehicle is in and remains in the motor vehicle leasing dealer who 42371
originally leases it, irrespective of whether or not the motor 42372
vehicle is the subject of a later sublease, and not in the user, 42373
but does not mean a manufacturer or its affiliate leasing to its 42374
employees or to dealers. 42375

(N) "Salesperson" means any person employed by a dealer or 42376
manufactured home broker to sell, display, and offer for sale, or 42377
deal in motor vehicles for a commission, compensation, or other 42378
valuable consideration, but does not mean any public officer 42379
performing official duties. 42380

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

(a) Fifteen feet in length, exclusive of bumper and tongue;

(b) Sixty inches in height from the point of contact with the ground;	42411 42412
(c) Eight feet in width;	42413
(d) One ton gross weight at time of sale.	42414
(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.	42415 42416 42417 42418 42419 42420
(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.	42421 42422 42423 42424
(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.	42425 42426 42427 42428 42429
(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.	42430 42431 42432 42433
(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.	42434 42435 42436
(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.	42437 42438 42439
(Z) "Factory representative" means a representative employed	42440

by a manufacturer, remanufacturer, or by a factory branch 42441
primarily for the purpose of promoting the sale of its motor 42442
vehicles, parts, or accessories to dealers or for supervising or 42443
contacting its dealers or prospective dealers. 42444

(AA) "Administrative or executive management" means those 42445
individuals who are not subject to federal wage and hour laws. 42446

(BB) "Good faith" means honesty in the conduct or transaction 42447
concerned and the observance of reasonable commercial standards of 42448
fair dealing in the trade as is defined in division (S) of section 42449
1301.01 of the Revised Code, including, but not limited to, the 42450
duty to act in a fair and equitable manner so as to guarantee 42451
freedom from coercion, intimidation, or threats of coercion or 42452
intimidation; provided however, that recommendation, endorsement, 42453
exposition, persuasion, urging, or argument shall not be 42454
considered to constitute a lack of good faith. 42455

(CC) "Coerce" means to compel or attempt to compel by failing 42456
to act in good faith or by threat of economic harm, breach of 42457
contract, or other adverse consequences. Coerce does not mean to 42458
argue, urge, recommend, or persuade. 42459

(DD) "Relevant market area" means any area within a radius of 42460
ten miles from the site of a potential new dealership, except that 42461
for manufactured home or recreational vehicle dealerships the 42462
radius shall be twenty-five miles. The ten-mile radius shall be 42463
measured from the dealer's established place of business that is 42464
used exclusively for the purpose of selling, displaying, offering 42465
for sale, or dealing in motor vehicles. 42466

(EE) "Wholesale" or "at wholesale" means the act or attempted 42467
act of selling, bartering, exchanging, or otherwise disposing of a 42468
motor vehicle to a transferee for the purpose of resale and not 42469
for ultimate consumption by that transferee. 42470

(FF) "Motor vehicle wholesaler" means any person licensed as 42471

a dealer under the laws of another state and engaged in the 42472
business of selling, displaying, or offering for sale used motor 42473
vehicles, at wholesale, but does not mean any motor vehicle dealer 42474
as defined in this section. 42475

(GG)(1) "Remanufacturer" means a person who assembles or 42476
installs passenger seating, walls, a roof elevation, or a body 42477
extension on a conversion van with the motor vehicle chassis 42478
supplied by a manufacturer or distributor, a person who modifies a 42479
truck chassis supplied by a manufacturer or distributor for use as 42480
a public safety or public service vehicle, a person who modifies a 42481
motor vehicle chassis supplied by a manufacturer or distributor 42482
for use as a limousine or hearse, or a person who modifies an 42483
incomplete motor vehicle cab and chassis supplied by a new motor 42484
vehicle dealer or distributor for use as a tow truck, but does not 42485
mean either of the following: 42486

(a) A person who assembles or installs passenger seating, 42487
walls, a roof elevation, or a body extension on a manufactured 42488
home as defined in division (C)(4) of section 3781.06 of the 42489
Revised Code, a mobile home as defined in division (O) and 42490
referred to in division (B) of section 4501.01 of the Revised 42491
Code, or a recreational vehicle as defined in division (Q) and 42492
referred to in division (B) of section 4501.01 of the Revised 42493
Code; 42494

(b) A person who assembles or installs special equipment or 42495
accessories for handicapped persons, as defined in section 4503.44 42496
of the Revised Code, upon a motor vehicle chassis supplied by a 42497
manufacturer or distributor. 42498

(2) For the purposes of division (GG)(1) of this section, 42499
"public safety vehicle or public service vehicle" means a fire 42500
truck, ambulance, school bus, street sweeper, garbage packing 42501
truck, or cement mixer, or a mobile self-contained facility 42502

vehicle.

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(3) For the purposes of division (GG)(1) of this section,
"limousine" means a motor vehicle, designed only for the purpose
of carrying nine or fewer passengers, that a person modifies by
cutting the original chassis, lengthening the wheelbase by forty
inches or more, and reinforcing the chassis in such a way that all
modifications comply with all applicable federal motor vehicle
safety standards. No person shall qualify as or be deemed to be a
remanufacturer who produces limousines unless the person has a
written agreement with the manufacturer of the chassis the person
utilizes to produce the limousines to complete properly the
remanufacture of the chassis into limousines.

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(4) For the purposes of division (GG)(1) of this section,
"hearse" means a motor vehicle, designed only for the purpose of
transporting a single casket, that is equipped with a compartment
designed specifically to carry a single casket that a person
modifies by cutting the original chassis, lengthening the
wheelbase by ten inches or more, and reinforcing the chassis in
such a way that all modifications comply with all applicable
federal motor vehicle safety standards. No person shall qualify as
or be deemed to be a remanufacturer who produces hearses unless
the person has a written agreement with the manufacturer of the
chassis the person utilizes to produce the hearses to complete
properly the remanufacture of the chassis into hearses.

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(5) For the purposes of division (GG)(1) of this section,
"mobile self-contained facility vehicle" means a mobile classroom
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile,
testing laboratory, and mobile display vehicle, each of which is
designed for purposes other than for passenger transportation and
other than the transportation or displacement of cargo, freight,
materials, or merchandise. A vehicle is remanufactured into a
mobile self-contained facility vehicle in part by the addition of

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insulation to the body shell, and installation of all of the 42535
following: a generator, electrical wiring, plumbing, holding 42536
tanks, doors, windows, cabinets, shelving, and heating, 42537
ventilating, and air conditioning systems. 42538

(6) For the purposes of division (GG)(1) of this section, 42539
"tow truck" means both of the following: 42540

(a) An incomplete cab and chassis that are purchased by a 42541
remanufacturer from a new motor vehicle dealer or distributor of 42542
the cab and chassis and on which the remanufacturer then installs 42543
in a permanent manner a wrecker body it purchases from a 42544
manufacturer or distributor of wrecker bodies, installs an 42545
emergency flashing light pylon and emergency lights upon the mast 42546
of the wrecker body or rooftop, and installs such other related 42547
accessories and equipment, including push bumpers, front grille 42548
guards with pads and other custom-ordered items such as painting, 42549
special lettering, and safety striping so as to create a complete 42550
motor vehicle capable of lifting and towing another motor vehicle. 42551

(b) An incomplete cab and chassis that are purchased by a 42552
remanufacturer from a new motor vehicle dealer or distributor of 42553
the cab and chassis and on which the remanufacturer then installs 42554
in a permanent manner a car carrier body it purchases from a 42555
manufacturer or distributor of car carrier bodies, installs an 42556
emergency flashing light pylon and emergency lights upon the 42557
rooftop, and installs such other related accessories and 42558
equipment, including push bumpers, front grille guards with pads 42559
and other custom-ordered items such as painting, special 42560
lettering, and safety striping. 42561

As used in division (GG)(6)(b) of this section, "car carrier 42562
body" means a mechanical or hydraulic apparatus capable of lifting 42563
and holding a motor vehicle on a flat level surface so that one or 42564
more motor vehicles can be transported, once the car carrier is 42565

permanently installed upon an incomplete cab and chassis. 42566

(HH) "Operating as a new motor vehicle dealership" means 42567
engaging in activities such as displaying, offering for sale, and 42568
selling new motor vehicles at retail, operating a service facility 42569
to perform repairs and maintenance on motor vehicles, offering for 42570
sale and selling motor vehicle parts at retail, and conducting all 42571
other acts that are usual and customary to the operation of a new 42572
motor vehicle dealership. For the purposes of this chapter only, 42573
possession of either a valid new motor vehicle dealer franchise 42574
agreement or a new motor vehicle dealers license, or both of these 42575
items, is not evidence that a person is operating as a new motor 42576
vehicle dealership. 42577

(II) "Manufactured home broker" means any person acting as a 42578
selling agent on behalf of an owner of a manufactured or mobile 42579
home that is subject to taxation under section 4503.06 of the 42580
Revised Code. 42581

(JJ) "Outdoor power equipment" means garden and small utility 42582
tractors, walk-behind and riding mowers, chainsaws, and tillers. 42583

(KK) "Remote service facility" means premises that are 42584
separate from a licensed new motor vehicle dealer's sales facility 42585
by not more than one mile and that are used by the dealer to 42586
perform repairs, warranty work, recall work, and maintenance on 42587
motor vehicles pursuant to a franchise agreement entered into with 42588
a manufacturer of motor vehicles. A remote service facility shall 42589
be deemed to be part of the franchise agreement and is subject to 42590
all the rights, duties, obligations, and requirements of Chapter 42591
4517. of the Revised Code that relate to the performance of motor 42592
vehicle repairs, warranty work, recall work, and maintenance work 42593
by new motor vehicle dealers. 42594

Sec. 4519.01. As used in this chapter: 42595

(A) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads.

(B) "All-purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes, ~~but excluding any self-propelled vehicle not principally used for purposes of personal transportation.~~ "All-purpose vehicle" does not include a utility vehicle as defined in section 4501.01 of the Revised Code or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Chapter 4503. or 4561. of the Revised Code, and any vehicle excepted from definition as a motor vehicle by division (B) of section 4501.01 of the Revised Code.

(C) "Owner" means any person or firm, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all-purpose vehicle, or other right to the possession thereof.

(D) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle, or all-purpose vehicle.

(E) "Dealer" means any person or firm engaged in the business of manufacturing or selling snowmobiles, off-highway motorcycles, or all-purpose vehicles at wholesale or retail, or who rents, leases, or otherwise furnishes snowmobiles, off-highway motorcycles, or all-purpose vehicles for hire.

(F) "Street or highway" has the same meaning as in section 4511.01 of the Revised Code.

(G) "Limited access highway" and "freeway" have the same

meanings as in section 5511.02 of the Revised Code. 42627

(H) "Interstate highway" means any part of the interstate 42628
system of highways as defined in subsection (e), 90 Stat. 431 42629
(1976), 23 U.S.C.A. 103, as amended. 42630

(I) "Off-highway motorcycle" means every motorcycle, as 42631
defined in section 4511.01 of the Revised Code, that is designed 42632
to be operated primarily on lands other than a street or highway. 42633

(J) "Electronic" and "electronic record" have the same 42634
meanings as in section 4501.01 of the Revised Code. 42635

(K) "Electronic dealer" means a dealer whom the registrar of 42636
motor vehicles designates under section 4519.511 of the Revised 42637
Code. 42638

Sec. 4519.02. (A) Except as provided in divisions (B), (C), 42639
and (D) of this section, no person shall operate any snowmobile, 42640
off-highway motorcycle, or all-purpose vehicle within this state 42641
unless the snowmobile, off-highway motorcycle, or all-purpose 42642
vehicle is registered and numbered in accordance with sections 42643
4519.03 and 4519.04 of the Revised Code. 42644

(B) No registration is required for a snowmobile, off-highway 42645
motorcycle, or all-purpose vehicle that is operated exclusively 42646
upon lands owned by the owner of the snowmobile, off-highway 42647
motorcycle, or all-purpose vehicle, or on lands to which the owner 42648
has a contractual right. 42649

(C) ~~No registration is required for a snowmobile, off highway 42650
motorcycle, or all purpose vehicle owned and used in this state by 42651
a resident of another state whenever that state has in effect a 42652
registration law similar to this chapter and the snowmobile, 42653
off highway motorcycle, or all purpose vehicle is properly 42654
registered thereunder.~~ Any snowmobile, off-highway motorcycle, or 42655
all-purpose vehicle owned and used in this state by a person who 42656

~~is not a~~ resident of ~~another~~ this state ~~not having such a~~ 42657
~~registration requirement~~ shall comply with section 4519.09 of the 42658
Revised Code. 42659

(D) No registration is required for a snowmobile, off-highway 42660
motorcycle, or all-purpose vehicle owned and used in this state by 42661
the United States, another state, or a political subdivision 42662
thereof, but the snowmobile, off-highway motorcycle, or 42663
all-purpose vehicle shall display the name of the owner thereon. 42664

(E) The owner or operator of any all-purpose vehicle operated 42665
or used upon the waters in this state shall comply with Chapters 42666
1547. and 1548. of the Revised Code relative to the operation of 42667
watercraft. 42668

(F) Except as otherwise provided in this division, whoever 42669
violates division (A) of this section shall be fined not more than 42670
twenty-five dollars. If the offender previously has been convicted 42671
of or pleaded guilty to a violation of division (A) of this 42672
section, whoever violates division (A) of this section shall be 42673
fined not less than twenty-five nor more than fifty dollars. 42674

Sec. 4519.09. Every owner or operator of a snowmobile, 42675
off-highway motorcycle, or all-purpose vehicle who is not a 42676
resident of a this state ~~not having a registration law similar to~~ 42677
~~this chapter~~, and who expects to use the snowmobile, off-highway 42678
motorcycle, or all-purpose vehicle in Ohio, shall apply to the 42679
registrar of motor vehicles or a deputy registrar for a temporary 42680
operating permit. The temporary operating permit shall be issued 42681
for a period not to exceed fifteen days from the date of issuance, 42682
shall be in such form as the registrar determines, shall include 42683
the name and address of the owner and operator of the snowmobile, 42684
off-highway motorcycle, or all-purpose vehicle, and any other 42685
information as the registrar considers necessary, and shall be 42686
issued upon payment of a fee of five dollars. Every owner or 42687

operator receiving a temporary operating permit shall display it 42688
upon the reasonable request of any law enforcement officer or 42689
other person as authorized by sections 4519.42 and 4519.43 of the 42690
Revised Code. 42691

Sec. 4561.17. For the purpose of providing revenue for paying 42692
the expenses of administering sections 4561.17 to 4561.22 of the 42693
Revised Code relative to the registration of aircraft, for the 42694
surveying of and the establishment, checking, maintenance, and 42695
repair of aviation air marking and of air navigation facilities, 42696
for airport capital improvements, for the acquiring, maintaining, 42697
and repairing of equipment necessary therefor, and for the cost of 42698
the creation and distribution of Ohio aeronautical charts and Ohio 42699
airport and landing field directories, an annual license tax is 42700
hereby levied upon all aircraft based in this state for which an 42701
aircraft worthiness certificate issued by the federal aviation 42702
administration is in effect except the following: 42703

(A) Aircraft owned by the United States or any territory 42704
thereof; 42705

(B) Aircraft owned by any foreign government; 42706

(C) Aircraft owned by any state or any political subdivision 42707
thereof; 42708

(D) Aircraft operated under a certificate of convenience and 42709
necessity issued by the civil aeronautics board or any successor 42710
thereto; 42711

(E) Aircraft owned by any nonresident of this state whether 42712
such owner is an individual, partnership, or corporation, provided 42713
such owner has complied with all the laws in regard to the 42714
licensing of aircraft in the state of ~~his~~ the owner's residence; 42715

(F) Aircraft owned by aircraft manufacturers or aircraft 42716
engine manufacturers and operated only for purposes of testing, 42717

delivery, or demonstration; 42718

(G) Aircraft operated for hire over regularly scheduled 42719
routes within the state. 42720

Such license tax shall be at the rates specified in section 42721
4561.18 of the Revised Code, and shall be paid to and collected by 42722
the director of transportation at the time of making application 42723
as provided in such section. 42724

Sec. 4561.18. Applications for the licensing and registration 42725
of aircraft shall be made and signed by the owner thereof upon 42726
forms prepared by the department of transportation and shall 42727
contain a description of the aircraft, including its federal 42728
registration number, and such other information as is required by 42729
the department. 42730

Applications shall be filed with the director of 42731
transportation during the month of January annually and shall be 42732
renewed according to the standard renewal procedure of sections 42733
4745.01 to 4745.03 of the Revised Code. Application for 42734
registration of any aircraft not previously registered in this 42735
state, if such aircraft is acquired or becomes subject to such 42736
license tax subsequent to the last day of January in any year, 42737
shall be made for the balance of the year in which the same is 42738
acquired, within forty-eight hours after such acquisition or after 42739
becoming subject to such license tax. Each such application shall 42740
be accompanied by the proper license tax, which, for all aircraft 42741
other than gliders and balloons, shall be at the annual rate of 42742
~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the 42743
manufacturer's maximum listed seating capacity. The license tax 42744
for gliders and balloons shall be ~~three~~ fifteen dollars annually. 42745

Such taxes are in lieu of all other taxes on or with respect 42746
to ownership of such aircraft. 42747

Sec. 4561.21. (A) The director of transportation shall 42748
deposit all aircraft transfer fees in the state treasury to the 42749
credit of the general fund. 42750

(B) The director shall deposit all aircraft license taxes in 42751
the state treasury to the credit of the ~~county~~ airport ~~maintenance~~ 42752
assistance fund, which is hereby created. Money in the fund shall 42753
be used ~~to assist counties in maintaining the~~ for maintenance and 42754
capital improvements to publicly owned airports ~~they own~~, and the 42755
director shall distribute the money to ~~counties~~ eligible 42756
recipients in accordance with such procedures, guidelines, and 42757
criteria as the director shall establish. 42758

Sec. 4703.15. (A) The state board of examiners of architects 42759
may by three concurring votes deny renewal of, revoke, or suspend 42760
any certificate of qualification to practice architecture, issued 42761
or renewed under sections 4703.10, 4703.13, and 4703.14 of the 42762
Revised Code, or any certificate of authorization, issued or 42763
renewed under sections 4703.13 and 4703.18 of the Revised Code, if 42764
proof satisfactory to the board is presented in any of the 42765
following cases: 42766

~~(A)~~(1) In case it is shown that the certificate was obtained 42767
by fraud; 42768

~~(B)~~(2) In case the holder of the certificate has been found 42769
guilty by the board or by a court of justice of any fraud or 42770
deceit in ~~his~~ the holder's professional practice, or has been 42771
convicted of a felony by a court of justice; 42772

~~(C)~~(3) In case the holder has been found guilty by the board 42773
of gross negligence, incompetency, or misconduct in the 42774
performance of ~~his~~ the holder's services as an architect or in the 42775
practice of architecture; 42776

~~(D)~~(4) In case the holder of the certificate has been found 42777

guilty by the board of signing plans for the construction of a 42778
building as a "registered architect" where ~~he~~ the holder is not 42779
the actual architect of such building and where ~~he~~ the holder is 42780
without prior written consent of the architect originating the 42781
design or other documents used in the plans; 42782

~~(E)~~(5) In case the holder of the certificate has been found 42783
guilty by the board of aiding and abetting another person or 42784
persons not properly registered as required by sections 4703.01 to 42785
4703.19 of the Revised Code, in the performance of activities that 42786
in any manner or extent constitute the practice of architecture. 42787

At any time after the expiration of six months from the date 42788
of the revocation or suspension of a certificate, the individual, 42789
firm, partnership, association, or corporation may apply for 42790
reinstatement of the certificate. Upon showing that all loss 42791
caused by the individual, firm, partnership, association, or 42792
corporation whose certificate has been revoked or suspended has 42793
been fully satisfied and that all conditions imposed by the 42794
revocation or suspension decision have been complied with, and 42795
upon the payment of all costs incurred by the board as a result of 42796
the case at issue, the board, at its discretion and upon evidence 42797
that in its opinion would so warrant, may restore the certificate. 42798

(B) In addition to disciplinary action the board may take 42799
against a certificate holder under division (A) of this section or 42800
section 4703.151 of the Revised Code, the board may impose a fine 42801
against a certificate holder who obtained a certificate by fraud 42802
or who is found guilty of any act specified in divisions (A)(2) to 42803
(A)(5) of this section or who violates any rule governing the 42804
standards of service, conduct, and practice adopted pursuant to 42805
section 4703.02 of the Revised Code. The fine imposed shall be not 42806
more than one thousand dollars for each offense but shall not 42807
exceed five thousand dollars regardless of the number of offenses 42808
the certificate holder has committed between the time the fine is 42809

imposed and the time any previous fine was imposed.

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Sec. 4705.09. (A)(1) Any person admitted to the practice of law in this state by order of the supreme court in accordance with its prescribed and published rules, or any law firm or legal professional association, may establish and maintain an interest-bearing trust account, for purposes of depositing client funds held by the attorney, firm, or association that are nominal in amount or are to be held by the attorney, firm, or association for a short period of time, with any bank or savings and loan association that is authorized to do business in this state and is insured by the federal deposit insurance corporation or the successor to that corporation, or any credit union insured by the national credit union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each account established under this division shall be in the name of the attorney, firm, or association that established and is maintaining it and shall be identified as an IOLTA or an interest on lawyer's trust account. The name of the account may contain additional identifying features to distinguish it from other trust accounts established and maintained by the attorney, firm, or association.

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(2) Each attorney who receives funds belonging to a client shall do one of the following:

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(a) Establish and maintain one or more interest-bearing trust accounts in accordance with division (A)(1) of this section or maintain one or more interest-bearing trust accounts previously established in accordance with that division, and deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in the account or accounts;

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(b) If the attorney is affiliated with a law firm or legal

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professional association, comply with division (A)(2)(a) of this 42841
section or deposit all client funds held that are nominal in 42842
amount or are to be held by the attorney for a short period of 42843
time in one or more interest-bearing trust accounts established 42844
and maintained by the firm or association in accordance with 42845
division (A)(1) of this section. 42846

(3) No funds belonging to any attorney, firm, or legal 42847
professional association shall be deposited in any 42848
interest-bearing ~~IOTA~~ IOLTA account established under division 42849
(A)(1) or (2) of this section, except that funds sufficient to pay 42850
or enable a waiver of depository institution service charges on 42851
the account shall be deposited in the account and other funds 42852
belonging to the attorney, firm, or association may be deposited 42853
as authorized by the Code of Professional Responsibility adopted 42854
by the supreme court. The determinations of whether funds held are 42855
nominal or more than nominal in amount and of whether funds are to 42856
be held for a short period or longer than a short period of time 42857
rests in the sound judgment of the particular attorney. No 42858
imputation of professional misconduct shall arise from the 42859
attorney's exercise of judgment in these matters. 42860

(B) All interest earned on funds deposited in an 42861
interest-bearing trust account established under division (A)(1) 42862
or (2) of this section shall be transmitted to the treasurer of 42863
state for deposit in the legal aid fund established under section 42864
120.52 of the Revised Code. No part of the interest earned on 42865
funds deposited in an interest-bearing trust account established 42866
under division (A)(1) or (2) of this section shall be paid to, or 42867
inure to the benefit of, the attorney, the attorney's law firm or 42868
legal professional association, the client or other person who 42869
owns or has a beneficial ownership of the funds deposited, or any 42870
other person other than in accordance with this section, section 42871
4705.10, and sections 120.51 to 120.55 of the Revised Code. 42872

(C) No liability arising out of any act or omission by any attorney, law firm, or legal professional association with respect to any interest-bearing trust account established under division (A)(1) or (2) of this section shall be imputed to the depository institution.

(D) The supreme court may adopt and enforce rules of professional conduct that pertain to the use, by attorneys, law firms, or legal professional associations, of interest-bearing trust accounts established under division (A)(1) or (2) of this section, and that pertain to the enforcement of division (A)(2) of this section. Any rules adopted by the supreme court under this authority shall conform to the provisions of this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

Sec. 4709.05. In addition to any other duty imposed on the barber board under this chapter, the board shall do all of the following:

(A) Organize by electing a chairperson from its members to serve a one-year term;

(B) Hold regular meetings, at the times and places as it determines for the purpose of conducting the examinations required under this chapter, and hold additional meetings for the transaction of necessary business;

(C) Provide for suitable quarters, in the city of Columbus, for the conduct of its business and the maintenance of its records;

(D) Adopt a common seal for the authentication of its orders, communications, and records;

(E) Maintain a record of its proceedings and a register of persons licensed as barbers. The register shall include each licensee's name, place of business, residence, and licensure date

and number, and a record of all licenses issued, refused, renewed, 42903
suspended, or revoked. The records are open to public inspection 42904
at all reasonable times. 42905

(F) Annually, on or before the first day of January, make a 42906
report to the governor of all its official acts during the 42907
preceding year, its receipts and disbursements, recommendations it 42908
determines appropriate, and an evaluation of board activities 42909
intended to aid or protect consumers of barber services; 42910

(G) Employ an executive director who shall do all things 42911
requested by the board for the administration and enforcement of 42912
this chapter. The executive director shall employ inspectors, 42913
clerks, and other assistants as ~~he~~ the executive director 42914
determines necessary. 42915

(H) Ensure that the practice of barbering is conducted only 42916
in a licensed barber shop, except when the practice of barbering 42917
is performed on a person whose physical or mental disability 42918
prevents that person from going to a licensed barber shop; 42919

(I) Conduct or have conducted the examination for applicants 42920
to practice as licensed barbers at least four times per year at 42921
the times and places the board determines; 42922

(J) Adopt rules, in accordance with Chapter 119. of the 42923
Revised Code, to administer and enforce this chapter and which 42924
cover all of the following: 42925

(1) Sanitary standards for the operation of barber shops and 42926
barber schools that conform to guidelines established by the 42927
department of health; 42928

(2) The content of the examination required of an applicant 42929
for a barber license. The examination shall include a practical 42930
demonstration and a written test, shall relate only to the 42931
practice of barbering, and shall require the applicant to 42932

demonstrate that the applicant has a thorough knowledge of and 42933
competence in the proper techniques in the safe use of chemicals 42934
used in the practice of barbering. 42935

(3) Continuing education requirements for persons licensed 42936
pursuant to this chapter. The board may impose continuing 42937
education requirements upon a licensee for a violation of this 42938
chapter or the rules adopted pursuant thereto or if the board 42939
determines that the requirements are necessary to preserve the 42940
health, safety, or welfare of the public. 42941

(4) Requirements for the licensure of barber schools, barber 42942
teachers, and assistant barber teachers; 42943

(5) Requirements for students of barber schools; 42944

(6) Any other area the board determines appropriate to 42945
administer or enforce this chapter. 42946

(K) Annually review the rules adopted pursuant to division 42947
(J) of this section in order to compare those rules with the rules 42948
adopted by the state board of cosmetology pursuant to section 42949
4713.08 of the Revised Code. If the barber board determines that 42950
the rules adopted by the state board of cosmetology, including, 42951
but not limited to, rules concerning using career technical 42952
schools, would be beneficial to the barbering profession, the 42953
barber board shall adopt rules similar to those it determines 42954
would be beneficial for barbers. 42955

(L) Prior to adopting any rule under this chapter, indicate 42956
at a formal hearing the reasons why the rule is necessary as a 42957
protection of the persons who use barber services or as an 42958
improvement of the professional standing of barbers in this state; 42959

~~(L)~~(M) Furnish each owner or manager of a barber shop and 42960
barber school with a copy of all sanitary rules adopted pursuant 42961
to division (J) of this section; 42962

~~(M)~~(N) Conduct such investigations and inspections of persons 42963
and establishments licensed or unlicensed pursuant to this chapter 42964
and for that purpose, any member of the board or any of its 42965
authorized agents may enter and inspect any place of business of a 42966
licensee or a person suspected of violating this chapter or the 42967
rules adopted pursuant thereto, during normal business hours; 42968

~~(N)~~(O) Upon the written request of an applicant and the 42969
payment of the appropriate fee, provide to the applicant licensure 42970
information concerning the applicant; 42971

~~(O)~~(P) Do all things necessary for the proper administration 42972
and enforcement of this chapter. 42973

Sec. 4713.02. (A) There is hereby created the state board of 42974
cosmetology, consisting of all of the following members appointed 42975
by the governor, with the advice and consent of the senate: 42976

(1) One person holding a current, valid cosmetologist, 42977
managing cosmetologist, or cosmetology instructor license at the 42978
time of appointment; 42979

(2) Two persons holding current, valid managing cosmetologist 42980
licenses and actively engaged in managing beauty salons at the 42981
time of appointment; 42982

(3) One person who holds a current, valid independent 42983
contractor license at the time of appointment or the owner or 42984
manager of a licensed salon in which at least one person holding a 42985
current, valid independent contractor license practices a branch 42986
of cosmetology; 42987

(4) One person who represents individuals who teach the 42988
theory and practice of a branch of cosmetology at a vocational 42989
school; 42990

(5) One owner of a licensed school of cosmetology; 42991

(6) One owner of at least five licensed salons; 42992

(7) One person who is either a certified nurse practitioner 42993
or clinical nurse specialist holding a certificate of authority 42994
issued under Chapter 4723. of the Revised Code, or a physician 42995
authorized under Chapter 4731. of the Revised Code to practice 42996
medicine and surgery or osteopathic medicine and surgery; 42997

(8) One person representing the general public. 42998

(B) The superintendent of public instruction shall nominate 42999
three persons for the governor to choose from when making an 43000
appointment under division (A)(4) of this section. 43001

(C) All members shall be at least twenty-five years of age, 43002
residents of the state, and citizens of the United States. No more 43003
than two members, at any time, shall be graduates of the same 43004
school of cosmetology. 43005

Except for the initial members appointed under divisions 43006
(A)(3) and (4) of this section, terms of office are for five 43007
years. The term of the initial member appointed under division 43008
(A)(3) of this section shall be three years. The term of the 43009
initial member appointed under division (A)(4) of this section 43010
shall be four years. Terms shall commence on the first day of 43011
November and end on the thirty-first day of October. Each member 43012
shall hold office from the date of appointment until the end of 43013
the term for which appointed. In case of a vacancy occurring on 43014
the board, the governor shall, in the same manner prescribed for 43015
the regular appointment to the board, fill the vacancy by 43016
appointing a member. Any member appointed to fill a vacancy 43017
occurring prior to the expiration of the term for which the 43018
member's predecessor was appointed shall hold office for the 43019
remainder of such term. Any member shall continue in office 43020
subsequent to the expiration date of the member's term until the 43021
member's successor takes office, or until a period of sixty days 43022

has elapsed, whichever occurs first. Before entering upon the 43023
discharge of the duties of the office of member, each member shall 43024
take, and file with the secretary of state, the oath of office 43025
required by Section 7 of Article XV, Ohio Constitution. 43026

The members of the board shall receive an amount fixed 43027
pursuant to Chapter 124. of the Revised Code per diem for every 43028
meeting of the board which they attend, together with their 43029
necessary expenses, and mileage for each mile necessarily 43030
traveled. 43031

The members of the board shall annually elect, from among 43032
their number, a chairperson. 43033

The board shall prescribe the duties of its officers and 43034
establish an office at ~~Columbus, Ohio~~ within Franklin County. The 43035
board shall keep all records and files at the office and have the 43036
records and files at all reasonable hours open to public 43037
inspection. The board also shall adopt a seal. 43038

Sec. 4723.32. This chapter does not prohibit any of the 43039
following: 43040

(A) The practice of nursing by a student currently enrolled 43041
in and actively pursuing completion of a prelicensure nursing 43042
education program approved by the board of nursing, if the 43043
student's practice is under the auspices of the program and the 43044
student acts under the supervision of a registered nurse serving 43045
for the program as a faculty member, teaching assistant, or 43046
preceptor; 43047

(B) The rendering of medical assistance to a licensed 43048
physician, licensed dentist, or licensed podiatrist by a person 43049
under the direction, supervision, and control of such licensed 43050
physician, dentist, or podiatrist; 43051

(C) The activities of persons employed as nursing aides, 43052

attendants, orderlies, or other auxiliary workers in patient 43053
homes, nurseries, nursing homes, hospitals, home health agencies, 43054
or other similar institutions; 43055

(D) The provision of nursing services to family members or in 43056
emergency situations; 43057

(E) The care of the sick when done in connection with the 43058
practice of religious tenets of any church and by or for its 43059
members; 43060

(F) The practice of nursing as a certified registered nurse 43061
anesthetist, clinical nurse specialist, certified nurse-midwife, 43062
or certified nurse practitioner by a student currently enrolled in 43063
and actively pursuing completion of a program of study leading to 43064
initial authorization by the board to practice nursing in the 43065
specialty, if both of the following are the case: 43066

(1) The program qualifies the student to sit for the 43067
examination of a national certifying organization listed in 43068
division (A)(3) of section 4723.41 of the Revised Code or approved 43069
by the board under section 4723.46 of the Revised Code or the 43070
program prepares the student to receive a master's degree in 43071
accordance with division (A)(2) of section 4723.41 of the Revised 43072
Code; 43073

(2) The student's practice is under the auspices of the 43074
program and the student acts under the supervision of a registered 43075
nurse serving for the program as a faculty member, teaching 43076
assistant, or preceptor. 43077

(G) The activities of an individual who currently holds a 43078
license to practice nursing in another jurisdiction, if the 43079
individual's license has not been revoked, the individual is not 43080
currently under suspension or on probation, the individual does 43081
not represent the individual as being licensed under this chapter, 43082
and one of the following is the case: 43083

(1) The individual is engaging in the practice of nursing by 43084
discharging official duties while employed by or under contract 43085
with the United States government or any agency thereof; 43086

(2) The individual is engaging in the practice of nursing as 43087
an employee of an individual, agency, or corporation located in 43088
the other jurisdiction in a position with employment 43089
responsibilities that include transporting patients into, out of, 43090
or through this state, as long as each trip in this state does not 43091
exceed seventy-two hours; 43092

(3) The individual is consulting with an individual licensed 43093
in this state to practice any health-related profession; 43094

(4) The individual is engaging in activities associated with 43095
teaching in this state as a guest lecturer at or for a nursing 43096
education program, continuing nursing education program, or 43097
in-service presentation; 43098

(5) The individual is conducting evaluations of nursing care 43099
that are undertaken on behalf of an accrediting organization, 43100
including the national league for nursing accrediting committee, 43101
the joint commission on accreditation of healthcare organizations, 43102
or any other nationally recognized accrediting organization; 43103

(6) The individual is providing nursing care to an individual 43104
who is in this state on a temporary basis, not to exceed six 43105
months in any one calendar year, if the nurse is directly employed 43106
by or under contract with the individual or a guardian or other 43107
person acting on the individual's behalf; 43108

(7) The individual is providing nursing care during any 43109
disaster, natural or otherwise, that has been officially declared 43110
to be a disaster by a public announcement issued by an appropriate 43111
federal, state, county, or municipal official. 43112

(H) The administration of medication by an individual who 43113

holds a valid medication aide certificate issued under this 43114
chapter, if the medication is administered to a resident of a 43115
nursing home or residential care facility authorized by section 43116
4723.63 or 4723.64 of the Revised Code to utilize a certified 43117
medication technician and the medication is administered in 43118
accordance with section 4723.592 of the Revised Code. 43119

Sec. 4723.61. As used in this section and in sections 4723.62 43120
to 4723.69 of the Revised Code: 43121

(A) "Medication" means a drug, as defined in section 4729.01 43122
of the Revised Code. 43123

(B) "Medication error" means a failure to follow the 43124
prescriber's instructions when administering a prescription 43125
medication. 43126

(C) "Nursing home" and "residential care facility" have the 43127
same meanings as in section 3721.01 of the Revised Code. 43128

(D) "Prescription medication" means a medication that may be 43129
dispensed only pursuant to a prescription. 43130

(E) "Prescriber" and "prescription" have the same meanings as 43131
in section 4729.01 of the Revised Code. 43132

Sec. 4723.62. (A) There is hereby created the medication aide 43133
advisory council. The council shall consist of the following 43134
members: 43135

(1) A registered nurse working in long-term care, appointed 43136
by the governing body of the Ohio nurses association; 43137

(2) A licensed practical nurse working in long-term care, 43138
appointed by the governing body of the licensed practical nurse 43139
association of Ohio; 43140

(3) A registered nurse with experience in researching 43141

<u>gerontology issues, appointed by the governing body of the Ohio</u>	43142
<u>nurses association;</u>	43143
<u>(4) An advanced practice nurse with experience in</u>	43144
<u>gerontology, appointed by the governing body of the Ohio</u>	43145
<u>association of advanced practice nurses;</u>	43146
<u>(5) A representative of the Ohio health care association,</u>	43147
<u>appointed by the governing body of the association;</u>	43148
<u>(6) A representative of the association of Ohio philanthropic</u>	43149
<u>homes, housing, and services for the aging, appointed by the</u>	43150
<u>governing body of the association;</u>	43151
<u>(7) A representative of the Ohio academy of nursing homes,</u>	43152
<u>appointed by the governing body of the academy;</u>	43153
<u>(8) A representative of the Ohio assisted living association,</u>	43154
<u>appointed by the governing body of the association;</u>	43155
<u>(9) A representative of the Ohio association of long-term</u>	43156
<u>care ombudsmen, appointed by the governing body of the</u>	43157
<u>association;</u>	43158
<u>(10) A representative of the American association of retired</u>	43159
<u>persons, appointed by the governing body of the association;</u>	43160
<u>(11) A representative of facility residents and families of</u>	43161
<u>facility residents, appointed by the board of nursing;</u>	43162
<u>(12) A representative of the senior care pharmacy alliance,</u>	43163
<u>appointed by the governing body of the alliance;</u>	43164
<u>(13) A representative of nurse aides, as defined in section</u>	43165
<u>3721.21 of the Revised Code, appointed by the director of health;</u>	43166
<u>(14) A representative of the department of health with</u>	43167
<u>expertise in competency evaluation programs, as defined in section</u>	43168
<u>3721.21 of the Revised Code, appointed by the director of health;</u>	43169
<u>(15) A representative of the office of the state long-term</u>	43170

<u>care ombudsperson program, appointed by the state long-term care</u>	43171
<u>ombudsperson;</u>	43172
<u>(16) A representative of the department of job and family</u>	43173
<u>services, appointed by the director of job and family services.</u>	43174
<u>(B) Members of the council shall serve at the pleasure of</u>	43175
<u>their appointing authorities. Vacancies shall be filled in the</u>	43176
<u>manner provided for original appointments.</u>	43177
<u>(C) Members shall receive no compensation for their service</u>	43178
<u>on the council, except to the extent that serving on the council</u>	43179
<u>is part of their regular duties of employment.</u>	43180
<u>(D) The board of nursing shall appoint one of its members or</u>	43181
<u>a representative of the board to serve as the council's</u>	43182
<u>chairperson.</u>	43183
<u>Sec. 4723.621. The medication aide advisory council created</u>	43184
<u>under section 4723.62 of the Revised Code shall make</u>	43185
<u>recommendations to the board of nursing with respect to all of the</u>	43186
<u>following:</u>	43187
<u>(A) The design and operation of the medication aide pilot</u>	43188
<u>program conducted under section 4723.63 of the Revised Code,</u>	43189
<u>including a method of collecting data through reports submitted by</u>	43190
<u>participating nursing homes and residential care facilities;</u>	43191
<u>(B) The content of the course of instruction required to</u>	43192
<u>obtain certification as a medication aide, including the</u>	43193
<u>examination to be used to evaluate the ability to administer</u>	43194
<u>prescription medications safely and the score that must be</u>	43195
<u>attained to pass the examination;</u>	43196
<u>(C) Whether medication aides may administer prescription</u>	43197
<u>medications through a gastrostomy or jejunostomy tube and the</u>	43198
<u>amount and type of training a medication aide needs to be</u>	43199
<u>adequately prepared to administer prescription medications through</u>	43200

a gastrostomy or jejunostomy tube; 43201

(D) Protection of the health and welfare of the residents of 43202
nursing homes and residential care facilities participating in the 43203
pilot program and using medication aides pursuant to section 43204
4723.64 of the Revised Code on or after July 1, 2007; 43205

(E) The board's adoption of rules under section 4723.69 of 43206
the Revised Code; 43207

(F) Any other issue the council considers relevant to the use 43208
of medication aides in nursing homes and residential care 43209
facilities. 43210

Sec. 4723.63. (A) In consultation with the medication aide 43211
advisory council established under section 4723.62 of the Revised 43212
Code, the board of nursing shall conduct a pilot program for the 43213
use of medication aides in nursing homes and residential care 43214
facilities. The board shall conduct the pilot program in a manner 43215
consistent with human protection and other ethical concerns 43216
typically associated with research studies involving live 43217
subjects. 43218

The pilot program shall be commenced not later than August 1, 43219
2006, and shall be conducted until July 1, 2007. During this 43220
period, a nursing home or residential care facility participating 43221
in the pilot program may use one or more medication aides to 43222
administer prescription medications to its residents. To be used 43223
as a medication aide, an individual must hold certification from 43224
the board pursuant to section 4723.65 of the Revised Code. 43225

(B) The board, in consultation with the medication aide 43226
advisory council, shall do all of the following: 43227

(1) Design the pilot program; 43228

(2) Establish standards to govern medication aides and the 43229
nursing homes and residential care facilities participating in the 43230

pilot program, including standards for the training of medication
aides and the staff of participating nursing homes and residential
care facilities; 43231
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(3) Establish standards to protect the health and safety of
the residents of the nursing homes and residential care facilities
participating in the program; 43234
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(4) Select the nursing homes and residential care facilities
to participate in the program. 43237
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(C)(1) A nursing home or residential care facility may
volunteer to participate in the pilot program by submitting an
application to the board on a form prescribed and provided by the
board. From among the applicants, the board shall select eighty
nursing homes and forty residential care facilities to participate
in the pilot program. 43239
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(2) To be eligible to participate, a nursing home or
residential care facility shall agree to observe the standards
established by the board for the use of medication aides. A
nursing home is eligible to participate only if the department of
health has found in the two most recent surveys or inspections of
the home that the home is free from deficiencies related to the
administration of medication. A residential care facility is
eligible to participate only if the department has found that the
facility is free from deficiencies related to the provision of
skilled nursing care or the administration of medication. 43245
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(D) As a condition of participation in the pilot program, a
nursing home and residential care facility selected by the board
shall pay the participation fee established in rules adopted under
section 4723.69 of the Revised Code. The participation fee is not
reimbursable under the medicaid program established under Chapter
5111. of the Revised Code. 43255
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(E) On receipt of evidence found credible by the board that 43261

continued participation by a nursing home or residential care facility poses an imminent danger, risk of serious harm, or jeopardy to a resident of the home or facility, the board may terminate the authority of the home or facility to participate in the pilot program. 43262
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(F)(1) With the assistance of the medication aide advisory council, the board shall conduct an evaluation of the pilot program. In conducting the evaluation, the board shall do all of the following: 43267
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(a) Assess whether medication aides are able to administer prescription medications safely to nursing home and residential care facility residents; 43271
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(b) Determine the financial implications of using medication aides in nursing homes and residential care facilities; 43274
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(c) Consider any other issue the board or council considers relevant to the evaluation. 43276
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(2) Not later than March 1, 2007, the board shall prepare a report of its findings and recommendations derived from the evaluation of the pilot program. The board shall submit the report to the governor, president and minority leader of the senate, speaker and minority leader of the house of representatives, and director of health. 43278
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Sec. 4723.64. On and after July 1, 2007, any nursing home or residential care facility may utilize one or more medication aides to administer prescription medications to its residents. To be used as a medication aide, an individual must hold certification from the board of nursing pursuant to section 4723.65 of the Revised Code. 43284
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Sec. 4723.65. (A) An individual seeking certification as a 43290

medication aide shall apply to the board of nursing on a form 43291
prescribed and provided by the board. If the application is 43292
submitted on or after July 1, 2007, the application shall be 43293
accompanied by the certification fee established in rules adopted 43294
under section 4723.69 of the Revised Code. 43295

(B) The board shall issue a medication aide certificate to an 43296
applicant if the applicant satisfies all of the following 43297
requirements: 43298

(1) Is at least eighteen years of age; 43299

(2) Has a high school diploma or a high school equivalence 43300
diploma as defined in section 5107.40 of the Revised Code; 43301

(3) If the applicant is to practice as a medication aide in a 43302
nursing home, is a nurse aide who satisfies the requirements of 43303
division (A)(1), (2), (3), (4), (5), (6), or (8) of section 43304
3721.32 of the Revised Code; 43305

(4) If the applicant is to practice as a medication aide in a 43306
residential care facility, is a nurse aide who satisfies the 43307
requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) 43308
of section 3721.32 of the Revised Code or an individual who has at 43309
least one year of direct care experience in a residential care 43310
facility; 43311

(5) Successfully completes the course of instruction provided 43312
by a training program approved by the board under section 4723.66 43313
of the Revised Code; 43314

(6) Satisfies all other requirements for a medication aide 43315
certificate established in rules adopted under section 4723.69 of 43316
the Revised Code. 43317

(C) If a medication aide certificate is issued to an 43318
individual on the basis of having at least one year of direct care 43319
experience working in a residential care facility, as provided in 43320

division (B)(4) of this section, the certificate is valid for use 43321
only in a residential care facility. The board shall state the 43322
limitation on the certificate issued to the individual. 43323

(D) A medication aide certificate is valid for two years, 43324
unless earlier suspended or revoked. The certificate may be 43325
renewed in accordance with procedures specified by the board in 43326
rules adopted under section 4723.69 of the Revised Code. To be 43327
eligible for renewal, an applicant shall pay the renewal fee 43328
established in the rules and meet all renewal qualifications 43329
specified in the rules. 43330

(E) The board may deny, suspend, or revoke a medication aide 43331
certificate for reasons specified in rules adopted under section 43332
4723.69 of the Revised Code. All actions taken by the board to 43333
deny, suspend, or revoke a certificate shall be taken in 43334
accordance with Chapter 119. of the Revised Code. 43335

Sec. 4723.66. (A) A person or government entity seeking 43336
approval to provide a medication aide training program shall apply 43337
to the board of nursing on a form prescribed and provided by the 43338
board. If the application is submitted on or after July 1, 2007, 43339
the application shall be accompanied by the fee established in 43340
rules adopted under section 4723.69 of the Revised Code. 43341

(B) The board shall approve the applicant to provide a 43342
medication aide training program if the content of the course of 43343
instruction to be provided by the program meets the standards 43344
specified by the board in rules adopted under section 4723.69 of 43345
the Revised Code and includes all of the following: 43346

(1) At least seventy clock-hours of instruction, including 43347
both classroom instruction on medication administration and at 43348
least twenty clock-hours of supervised clinical practice in 43349
medication administration; 43350

(2) A mechanism for evaluating whether an individual's reading, writing, and mathematical skills are sufficient for the individual to be able to administer prescription medications safely; 43351
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(3) An examination that tests the ability to administer prescription medications safely and that meets the requirements established by the board in rules adopted under section 4723.69 of the Revised Code. 43355
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(C) The board may deny, suspend, or revoke the approval granted to the provider of a medication aide training program for reasons specified in rules adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke the approval of a training program shall be taken in accordance with Chapter 119. of the Revised Code. 43359
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Sec. 4723.67. (A) Except for the prescription medications specified in division (C) of this section and the methods of medication administration specified in division (D) of this section, a medication aide who holds a certificate issued under section 4723.65 of the Revised Code may administer prescription medications to the residents of nursing homes and residential care facilities that use medication aides pursuant to section 4723.63 or 4723.64 of the Revised Code. A medication aide shall administer prescription medications only pursuant to the delegation of a registered nurse or a licensed practical nurse acting at the direction of a registered nurse. 43365
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Delegation of medication administration to a medication aide shall be carried out in accordance with the rules for nursing delegation adopted under this chapter by the board of nursing. A nurse who has delegated to a medication aide responsibility for the administration of prescription medications to the residents of a nursing home or residential care facility shall not withdraw the 43376
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<u>delegation on an arbitrary basis or for any purpose other than</u>	43382
<u>patient safety.</u>	43383
<u>(B) In exercising the authority to administer prescription</u>	43384
<u>medications pursuant to nursing delegation, a medication aide may</u>	43385
<u>administer prescription medications in any of the following</u>	43386
<u>categories:</u>	43387
<u>(1) Oral medications;</u>	43388
<u>(2) Topical medications;</u>	43389
<u>(3) Medications administered as drops to the eye, ear, or</u>	43390
<u>nose;</u>	43391
<u>(4) Rectal and vaginal medications;</u>	43392
<u>(5) Medications prescribed with a designation authorizing or</u>	43393
<u>requiring administration on an as-needed basis, but only if a</u>	43394
<u>nursing assessment of the patient is completed before the</u>	43395
<u>medication is administered.</u>	43396
<u>(C) A medication aide shall not administer prescription</u>	43397
<u>medications in either of the following categories:</u>	43398
<u>(1) Medications containing a schedule II controlled</u>	43399
<u>substance, as defined in section 3719.01 of the Revised Code;</u>	43400
<u>(2) Medications requiring dosage calculations.</u>	43401
<u>(D) A certified medication aide shall not administer</u>	43402
<u>prescription medications by any of the following methods:</u>	43403
<u>(1) Injection;</u>	43404
<u>(2) Intravenous therapy procedures;</u>	43405
<u>(3) Splitting pills for purposes of changing the dose being</u>	43406
<u>given.</u>	43407
Sec. 4723.68. <u>A person employed by a nursing home or</u>	43408
<u>residential care facility that uses medication aides certified</u>	43409

under this chapter who reports in good faith a medication error at 43410
the nursing home or residential care facility is not subject to 43411
disciplinary action by the board of nursing or any other 43412
government entity regulating that person's professional practice 43413
and is not liable in damages to any person or government entity in 43414
a civil action for injury, death, or loss to person or property 43415
resulting from reporting the medication error. 43416

Sec. 4723.69. (A) In consultation with the medication aide 43417
advisory council created under section 4723.62 of the Revised 43418
Code, the board of nursing shall adopt rules to implement sections 43419
4723.61 to 4723.68 of the Revised Code. All rules adopted under 43420
this section shall be adopted in accordance with Chapter 119. of 43421
the Revised Code. 43422

(B) The rules adopted under this section shall establish or 43423
specify all of the following: 43424

(1) Fees, in an amount sufficient to cover the costs the 43425
board incurs in implementing sections 4723.61 to 4723.68 of the 43426
Revised Code, for participation in the medication aide pilot 43427
program, certification as a medication aide, and approval of a 43428
medication aide training program; 43429

(2) Requirements to obtain a medication aide certificate that 43430
are not otherwise specified in section 4723.65 of the Revised 43431
Code; 43432

(3) Procedures for renewal of medication aide certificates; 43433

(4) Standards for medication aide training programs, 43434
including the examination to be administered by the training 43435
program to test an individual's ability to administer prescription 43436
medications safely; 43437

(5) Reasons for denying, revoking, or suspending a medication 43438

<u>aide certificate or approval of a medication aide training</u>	43439
<u>program;</u>	43440
<u>(6) Other standards and procedures the board considers</u>	43441
<u>necessary to implement sections 4723.61 to 4723.68 of the Revised</u>	43442
<u>Code.</u>	43443
Sec. 4723.63 <u>4723.91</u>. On receipt of a notice pursuant to	43444
section 3123.43 of the Revised Code, the board of nursing shall	43445
comply with sections 3123.41 to 3123.50 of the Revised Code and	43446
any applicable rules adopted under section 3123.63 of the Revised	43447
Code with respect to a nursing license, <u>medication aide</u>	43448
<u>certificate</u> , dialysis technician certificate, or community health	43449
worker certificate issued pursuant to this chapter.	43450
Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the	43451
Revised Code:	43452
(A)(1) "Clinical laboratory services" means either of the	43453
following:	43454
(a) Any examination of materials derived from the human body	43455
for the purpose of providing information for the diagnosis,	43456
prevention, or treatment of any disease or impairment or for the	43457
assessment of health;	43458
(b) Procedures to determine, measure, or otherwise describe	43459
the presence or absence of various substances or organisms in the	43460
body.	43461
(2) "Clinical laboratory services" does not include the mere	43462
collection or preparation of specimens.	43463
(B) "Designated health services" means any of the following:	43464
(1) Clinical laboratory services;	43465
(2) Home health care services;	43466

(3) Outpatient prescription drugs. 43467

(C) "Fair market value" means the value in arms-length 43468
transactions, consistent with general market value and: 43469

(1) With respect to rentals or leases, the value of rental 43470
property for general commercial purposes, not taking into account 43471
its intended use; 43472

(2) With respect to a lease of space, not adjusted to reflect 43473
the additional value the prospective lessee or lessor would 43474
attribute to the proximity or convenience to the lessor if the 43475
lessor is a potential source of referrals to the lessee. 43476

(D) "Governmental health care program" means any program 43477
providing health care benefits that is administered by the federal 43478
government, this state, or a political subdivision of this state, 43479
including the medicare program established under Title XVIII of 43480
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 43481
as amended, health care coverage for public employees, health care 43482
benefits administered by the bureau of workers' compensation, or 43483
the medical assistance program established under Chapter 5111. of 43484
the Revised Code, ~~and the disability medical assistance program~~ 43485
~~established under Chapter 5115. of the Revised Code.~~ 43486

(E)(1) "Group practice" means a group of two or more holders 43487
of certificates under this chapter legally organized as a 43488
partnership, professional corporation or association, limited 43489
liability company, foundation, nonprofit corporation, faculty 43490
practice plan, or similar group practice entity, including an 43491
organization comprised of a nonprofit medical clinic that 43492
contracts with a professional corporation or association of 43493
physicians to provide medical services exclusively to patients of 43494
the clinic in order to comply with section 1701.03 of the Revised 43495
Code and including a corporation, limited liability company, 43496
partnership, or professional association described in division (B) 43497

of section 4731.226 of the Revised Code formed for the purpose of 43498
providing a combination of the professional services of 43499
optometrists who are licensed, certificated, or otherwise legally 43500
authorized to practice optometry under Chapter 4725. of the 43501
Revised Code, chiropractors who are licensed, certificated, or 43502
otherwise legally authorized to practice chiropractic under 43503
Chapter 4734. of the Revised Code, psychologists who are licensed, 43504
certificated, or otherwise legally authorized to practice 43505
psychology under Chapter 4732. of the Revised Code, registered or 43506
licensed practical nurses who are licensed, certificated, or 43507
otherwise legally authorized to practice nursing under Chapter 43508
4723. of the Revised Code, pharmacists who are licensed, 43509
certificated, or otherwise legally authorized to practice pharmacy 43510
under Chapter 4729. of the Revised Code, physical therapists who 43511
are licensed, certificated, or otherwise legally authorized to 43512
practice physical therapy under sections 4755.40 to 4755.53 of the 43513
Revised Code, mechanotherapists who are licensed, certificated, or 43514
otherwise legally authorized to practice mechanotherapy under 43515
section 4731.151 of the Revised Code, and doctors of medicine and 43516
surgery, osteopathic medicine and surgery, or podiatric medicine 43517
and surgery who are licensed, certificated, or otherwise legally 43518
authorized for their respective practices under this chapter, to 43519
which all of the following apply: 43520

(a) Each physician who is a member of the group practice 43521
provides substantially the full range of services that the 43522
physician routinely provides, including medical care, 43523
consultation, diagnosis, or treatment, through the joint use of 43524
shared office space, facilities, equipment, and personnel. 43525

(b) Substantially all of the services of the members of the 43526
group are provided through the group and are billed in the name of 43527
the group and amounts so received are treated as receipts of the 43528
group. 43529

(c) The overhead expenses of and the income from the practice 43530
are distributed in accordance with methods previously determined 43531
by members of the group. 43532

(d) The group practice meets any other requirements that the 43533
state medical board applies in rules adopted under section 4731.70 43534
of the Revised Code. 43535

(2) In the case of a faculty practice plan associated with a 43536
hospital with a medical residency training program in which 43537
physician members may provide a variety of specialty services and 43538
provide professional services both within and outside the group, 43539
as well as perform other tasks such as research, the criteria in 43540
division (E)(1) of this section apply only with respect to 43541
services rendered within the faculty practice plan. 43542

(F) "Home health care services" and "immediate family" have 43543
the same meanings as in the rules adopted under section 4731.70 of 43544
the Revised Code. 43545

(G) "Hospital" has the same meaning as in section 3727.01 of 43546
the Revised Code. 43547

(H) A "referral" includes both of the following: 43548

(1) A request by a holder of a certificate under this chapter 43549
for an item or service, including a request for a consultation 43550
with another physician and any test or procedure ordered by or to 43551
be performed by or under the supervision of the other physician; 43552

(2) A request for or establishment of a plan of care by a 43553
certificate holder that includes the provision of designated 43554
health services. 43555

(I) "Third-party payer" has the same meaning as in section 43556
3901.38 of the Revised Code. 43557

Sec. 4731.71. The auditor of state may implement procedures 43558

to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medical assistance program established under Chapter 5111. of the Revised Code ~~or the disability medical assistance program established under Chapter 5115. of the Revised Code~~, the auditor of state also shall report the amount to the department of commerce.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4736.11. The state board of sanitarian registration shall issue a certificate of registration to any applicant whom it registers as a sanitarian or a sanitarian-in-training. Such certificate shall bear:

(A) The name of the person;

(B) The date of issue;

(C) A serial number, designated by the board;

(D) The seal of the board and signature of the ~~chairman~~ chairperson of the board;

(E) The designation "registered sanitarian" or "sanitarian-in-training."

Certificates of registration shall expire annually on the date fixed by the board and become invalid on that date unless renewed pursuant to this section. All registered sanitarians shall

be required annually to complete a continuing education program in 43589
subjects relating to practices of the profession as a sanitarian 43590
to the end that the utilization and application of new techniques, 43591
scientific advancements, and research findings will assure 43592
comprehensive service to the public. The board shall prescribe by 43593
rule a continuing education program for registered sanitarians to 43594
meet this requirement. The length of study for this program shall 43595
be determined by the board but shall be not less than six nor more 43596
than twenty-five hours during the calendar year. At least once 43597
annually the board shall ~~mail~~ provide to each registered 43598
sanitarian a list of courses approved by the board as satisfying 43599
the program prescribed by rule. Upon the request of a registered 43600
sanitarian, the secretary shall supply a list of ~~any additional~~ 43601
applicable courses that the board has approved ~~since the most~~ 43602
~~recent mailing~~. A certificate may be renewed for a period of one 43603
year at any time prior to the date of expiration upon payment of 43604
the renewal fee prescribed by section 4736.12 of the Revised Code 43605
and upon showing proof of having complied with the continuing 43606
education requirements of this section. The state board of 43607
sanitarian registration may waive the continuing education 43608
requirement in cases of certified illness or disability which 43609
prevents the attendance at any qualified educational seminars 43610
during the twelve months immediately preceding the annual 43611
certificate of registration renewal date. Certificates which 43612
expire may be reinstated under rules adopted by the board. 43613

Sec. 4736.12. (A) The state board of sanitarian registration 43614
shall charge the following fees: 43615

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty 43616
dollars; 43617

(2) For sanitarians-in-training to apply for registration as 43618
sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay 43619

this fee only once regardless of the number of times the applicant 43620
takes an examination required under section 4736.08 of the Revised 43621
Code. 43622

(3) For persons other than sanitarians-in-training to apply 43623
for registration as sanitarians, including persons meeting the 43624
requirements of section 4736.16 of the Revised Code, one hundred 43625
~~fifty~~ sixty dollars. The applicant shall pay this fee only once 43626
regardless of the number of times the applicant takes an 43627
examination required under section 4736.08 of the Revised Code. 43628

(4) The renewal fee for registered sanitarians shall be 43629
~~sixty-nine~~ seventy-four dollars. 43630

(5) The renewal fee for sanitarians-in-training shall be 43631
~~sixty-nine~~ seventy-four dollars. 43632

(6) For late application for renewal, ~~twenty-five~~ 43633
twenty-seven dollars. 43634

The board of sanitarian registration, with the approval of 43635
the controlling board, may establish fees in excess of the amounts 43636
provided in this section, provided that such fees do not exceed 43637
the amounts permitted by this section by more than fifty per cent. 43638

(B) The board of sanitarian registration shall charge 43639
separate fees for examinations as required by section 4736.08 of 43640
the Revised Code, provided that the fees are not in excess of the 43641
actual cost to the board of conducting the examinations. 43642

(C) The board of sanitarian registration may adopt rules 43643
establishing fees for all of the following: 43644

(1) Application for the registration of a training agency 43645
approved under rules adopted by the board pursuant to section 43646
4736.11 of the Revised Code and for the annual registration 43647
renewal of an approved training agency. 43648

(2) Application for the review of continuing education hours 43649

submitted for the board's approval by approved training agencies 43650
or by registered sanitarians or sanitarians-in-training. 43651

Sec. 4740.14. (A) There is hereby created within the 43652
department of commerce the residential construction advisory 43653
committee consisting of ~~eight~~ nine persons the director of 43654
commerce appoints. Of the advisory committee's members, three 43655
shall be general contractors who have recognized ability and 43656
experience in the construction of residential buildings, two shall 43657
be building officials who have experience administering and 43658
enforcing a residential building code, one, chosen from a list of 43659
three names the Ohio fire chief's association submits, shall be 43660
from the fire service certified as a fire safety inspector who has 43661
at least ten years of experience enforcing fire or building codes, 43662
one shall be a residential contractor who has recognized ability 43663
and experience in the remodeling and construction of residential 43664
buildings, ~~and~~ one shall be an architect registered pursuant to 43665
Chapter 4703. of the Revised Code, with recognized ability and 43666
experience in the architecture of residential buildings, and one, 43667
chosen from a list of three names the Ohio municipal league 43668
submits to the director, shall be a mayor of a municipal 43669
corporation in which the Ohio residential building code is being 43670
enforced in the municipal corporation by a certified building 43671
department. 43672

(B) The director shall make appointments to the advisory 43673
committee within ninety days after ~~the effective date of this~~ 43674
~~section~~ May 27, 2005. Terms of office shall be for three years, 43675
with each term ending on the date three years after the date of 43676
appointment. Each member shall hold office from the date of 43677
appointment until the end of the term for which the member was 43678
appointed. The director shall fill a vacancy in the manner 43679
provided for initial appointments. Any member appointed to fill a 43680

vacancy in an unexpired term shall hold office for the remainder 43681
of that term. 43682

(C) The advisory committee shall do all of the following: 43683

(1) Recommend to the board of building standards a building 43684
code for residential buildings. The committee shall recommend a 43685
code that it models on a residential building code a national 43686
model code organization issues, with adaptations necessary to 43687
implement the code in this state. If the board of building 43688
standards decides not to adopt a code the committee recommends, 43689
the committee shall revise the code and resubmit it until the 43690
board adopts a code the committee recommends as the state 43691
residential building code; 43692

(2) Advise the board regarding the establishment of standards 43693
for certification of building officials who enforce the state 43694
residential building code; 43695

(3) Assist the board in providing information and guidance to 43696
residential contractors and building officials who enforce the 43697
state residential building code; 43698

(4) Advise the board regarding the interpretation of the 43699
state residential building code; 43700

(5) Provide other assistance the committee considers 43701
necessary. 43702

(D) In making its recommendation to the board pursuant to 43703
division (C)(1) of this section, the advisory committee shall 43704
consider all of the following: 43705

(1) The impact that the state residential building code may 43706
have upon the health, safety, and welfare of the public; 43707

(2) The economic reasonableness of the residential building 43708
code; 43709

(3) The technical feasibility of the residential building 43710

code; 43711

(4) The financial impact that the residential building code 43712
may have on the public's ability to purchase affordable housing. 43713

(E) Members of the advisory committee shall receive no salary 43714
for the performance of their duties as members, but shall receive 43715
their actual and necessary expenses incurred in the performance of 43716
their duties as members of the advisory committee and shall 43717
receive a per diem for each day in attendance at an official 43718
meeting of the committee, to be paid from the industrial 43719
compliance operating fund in the state treasury, using fees 43720
collected in connection with residential buildings pursuant to 43721
division (F)(2) of section 3781.102 of the Revised Code and 43722
deposited in that fund. 43723

(F) The advisory committee is not subject to divisions (A) 43724
and (B) of section 101.84 of the Revised Code. 43725

Sec. 4753.03. There is hereby created the board of 43726
speech-language pathology and audiology consisting of eight 43727
residents of this state to be appointed by the governor with the 43728
advice and consent of the senate. Three members of the board shall 43729
be licensed speech-language pathologists, and three members shall 43730
be licensed audiologists, who have been licensed and engaged in 43731
the practice, teaching, administration, or research in the area of 43732
appointment for at least five years prior to the dates of their 43733
appointment. Beginning with the first appointment of an 43734
audiologist to the board after ~~the effective date of this~~ 43735
~~amendment~~ November 5, 1992, at all times one of the audiologists 43736
serving on the board must be an audiologist engaged in the 43737
practice of fitting and dispensing hearing aids. At all times, two 43738
members shall be representatives of the general public, and 43739
neither shall be a speech-language pathologist or audiologist or a 43740
person licensed under this chapter. At least one of the members 43741

representing the general public shall be at least sixty years of 43742
age. ~~Any speech language pathologists and audiologists among the~~ 43743
~~initial appointees shall have at least a bachelor's degree in~~ 43744
~~speech language pathology or audiology and shall meet the~~ 43745
~~standards for licensure, other than examination, established by~~ 43746
~~section 4753.06 or 4753.08 of the Revised Code. Any~~ 43747
~~speech language pathologist or audiologist appointed to the board~~ 43748
~~after the effective date of this amendment, must hold a master's~~ 43749
~~or doctorate degree.~~ 43750

Terms of office shall be for three years, each term 43751
commencing on the twenty-seventh day of September and ending on 43752
the twenty-sixth day of September. Each member shall hold office 43753
from the date of ~~his~~ appointment until the end of the term for 43754
which ~~he was~~ appointed. Any member appointed to fill a vacancy 43755
occurring prior to the expiration of the term for which ~~his~~ the 43756
member's predecessor was appointed shall hold office for the 43757
remainder of such term. Any member shall continue in office 43758
subsequent to the expiration date of ~~his~~ the member's term until 43759
~~his~~ the member's successor takes office, or until a period of 43760
sixty days has elapsed, whichever occurs first. No person shall be 43761
appointed to serve consecutively more than two full terms. The 43762
executive council of the Ohio speech and hearing association may 43763
recommend, within forty-five days after any vacancy or expiration 43764
of a member's term occurs, no more than three persons to fill each 43765
position or vacancy on the board, and the governor may make ~~his~~ 43766
the appointment from the persons so recommended. If the council 43767
fails to make recommendations within the required time, the 43768
governor shall make the appointment without its recommendations. 43769

The terms of all speech-language pathology members shall not 43770
end in the same year; the terms of all audiology members shall not 43771
end in the same year. Upon the first appointment following ~~the~~ 43772
~~effective date of this amendment~~ November 5, 1992, the governor 43773

shall appoint speech-language pathology members and audiology 43774
members to one-, two-, or three-year terms to prevent the terms of 43775
all speech-language pathology members or all audiology members 43776
from ending in the same year. Thereafter, all terms shall be for 43777
three years. 43778

Sec. 4753.06. No person is eligible for licensure as a 43779
speech-language pathologist or audiologist unless: 43780

(A) ~~He~~ The person has obtained a broad general education to 43781
serve as a background for ~~his~~ the person's specialized academic 43782
training and preparatory professional experience. Such background 43783
may include study from among the areas of human psychology, 43784
sociology, psychological and physical development, the physical 43785
sciences, especially those that pertain to acoustic and biological 43786
phenomena, and human anatomy and physiology, including 43787
neuroanatomy and neurophysiology. 43788

(B) ~~He~~ If the person seeks licensure as a speech-language 43789
pathologist, the person submits to the board of speech-language 43790
pathology and audiology an official transcript demonstrating that 43791
~~he~~ the person has at least a master's degree in ~~the area in which~~ 43792
~~licensure is sought~~ speech-language pathology or the equivalent as 43793
determined by the board. ~~His~~ The person's academic credit must 43794
include course work accumulated in the completion of a 43795
well-integrated course of study approved by the board and 43796
delineated by rule dealing with the normal aspects of human 43797
communication, development and disorders thereof, and clinical 43798
techniques for the evaluation and the improvement or eradication 43799
of such disorders. The course work must have been completed at 43800
colleges or universities accredited by regional or national 43801
accrediting organizations recognized by the board. 43802

(C) ~~He~~ If the person seeks licensure as an audiologist, the 43803
person submits to the board an official transcript demonstrating 43804

that the person has at least a doctor of audiology degree or the 43805
equivalent as determined by the board. The person's academic 43806
credit must include course work accumulated in the completion of a 43807
well-integrated course of study approved by the board and 43808
delineated by rules dealing with the normal aspects of human 43809
hearing, balance, and related development and clinical evaluation, 43810
audiologic diagnosis, and treatment of disorders of human hearing, 43811
balance, and related development. The course work must have been 43812
completed in an audiology program that is accredited by an 43813
organization recognized by the United States department of 43814
education and operated by a college or university accredited by a 43815
regional or national accrediting organization recognized by the 43816
board. 43817

(D) The person submits to the board evidence of the 43818
completion of appropriate, supervised clinical experience in the 43819
professional area, speech-language pathology or audiology, for 43820
which licensure is requested, dealing with a variety of 43821
communication disorders. The appropriateness of the experience 43822
shall be determined under rules of the board. This experience 43823
shall have been obtained in an accredited college or university, 43824
in a cooperating program of an accredited college or university, 43825
or in another program approved by the board. 43826

~~(D) He~~ (E) The person submits to the board evidence that the 43827
person has passed the examination for licensure to practice 43828
speech-language pathology or audiology pursuant to division (B) of 43829
section 4753.05 of the Revised Code. 43830

(F) If the person submits to the board an application for 43831
licensure as an audiologist before January 1, 2006, and meets the 43832
requirements of division (B) of this section regarding a master's 43833
degree in audiology as that division existed on December 31, 2005, 43834
but not the requirements of division (C) of this section regarding 43835
a doctor of audiology degree or if the person seeks licensure as a 43836

speech-language pathologist, the person presents to the board 43837
written evidence that he the person has obtained professional 43838
experience. The professional experience shall be appropriately 43839
supervised as determined by board rule. The amount of professional 43840
experience shall be determined by board rule and shall be bona 43841
fide clinical work that has been accomplished in the major 43842
professional area, speech-language pathology or audiology, in 43843
which licensure is being sought. ~~This~~ If the person seeks 43844
licensure as a speech-language pathologist, this experience shall 43845
not begin until the requirements of divisions (B) ~~and (C), (D),~~ 43846
and (E) of this section have been completed unless approved by the 43847
board. If the person seeks licensure as an audiologist, this 43848
experience shall not begin until the requirements of division (B) 43849
of this section, as that division existed on December 31, 2005, 43850
and divisions (D) and (E) of this section have been completed 43851
unless approved by the board. Before beginning the supervised 43852
professional experience pursuant to this section, ~~any~~ the 43853
applicant for licensure to practice speech-language pathology or 43854
audiology shall ~~meet the requirements for~~ obtain a conditional 43855
license pursuant to section 4753.071 of the Revised Code. 43856

~~(E) He submits to the board evidence that he has passed the~~ 43857
~~examination for licensure to practice speech language pathology or~~ 43858
~~audiology pursuant to division (B) of section 4753.05 of the~~ 43859
~~Revised Code.~~ 43860

Sec. 4753.071. A person who is required to meet the 43861
supervised professional experience requirement of division (F) of 43862
section 4753.06 of the Revised Code shall submit to the board of 43863
speech-language pathology and audiology an application for a 43864
conditional license. The application shall include a plan for the 43865
content of the supervised professional experience on a form the 43866
board shall prescribe. ~~The board of speech language pathology and~~ 43867

audiology shall issue a the conditional license to ~~an~~ the 43868
applicant ~~who, except for the supervised professional experience+~~ 43869

~~(A) Meets if the applicant meets the academic, practicum, and 43870
examination requirements of divisions (B), (C), and (E) of section 43871
4753.06 of the Revised Code+~~ 43872

~~(B) Submits an application to the board, including a plan for 43873
the content of the supervised professional experience on a form 43874
prescribed by the board, other than the requirement to have 43875
obtained the supervised professional experience, and pays to the 43876
board the appropriate fee for a conditional license. An applicant 43877
may not begin employment until the conditional license has been 43878
approved issued. 43879~~

A conditional license authorizes an individual to practice 43880
speech-language pathology or audiology while completing the 43881
supervised professional experience as required by division ~~(D)~~(F) 43882
of section 4753.06 of the Revised Code. A person holding a 43883
conditional license may practice speech-language pathology or 43884
audiology while working under the supervision of a person fully 43885
licensed in accordance with this chapter. A conditional license is 43886
valid for eighteen months unless suspended or revoked pursuant to 43887
section 3123.47 or 4753.10 of the Revised Code. 43888

A person holding a conditional license may perform services 43889
for which reimbursement will be sought under the medicare program 43890
established under Title XVIII of the "Social Security Act," ~~49~~ 79 43891
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1395, as amended, or the 43892
~~medical assistance~~ medicaid program established under Chapter 43893
5111. of the Revised Code ~~and Title XIX of the "Social Security 43894
Act"~~ but all requests for reimbursement for such services shall be 43895
made by the person who supervises the person performing the 43896
services. 43897

Sec. 4753.08. The board of speech-language pathology and 43898
audiology shall waive the examination, educational, and 43899
professional experience requirements for any applicant who meets 43900
any of the following requirements: 43901

(A) On September 26, 1975, has at least a bachelor's degree 43902
with a major in speech-language pathology or audiology from an 43903
accredited college or university, or who has been employed as a 43904
speech-language pathologist or audiologist for at least nine 43905
months at any time within the three years prior to September 26, 43906
1975, if an application providing bona fide proof of such degree 43907
or employment is filed with the board within one year after 43908
September 26, 1975, and is accompanied by the application fee as 43909
prescribed in division (A) of section 4753.11 of the Revised Code; 43910

(B) Presents proof of current certification or licensure in 43911
good standing in the area in which licensure is sought in a state 43912
~~which that~~ has standards at least equal to those the standards for 43913
licensure that are in effect in this state at the time the 43914
applicant applies for the license; 43915

(C) Presents proof of both of the following: 43916

(1) Having current certification or licensure in good 43917
standing in audiology in a state that has standards at least equal 43918
to the standards for licensure as an audiologist that were in 43919
effect in this state on December 31, 2005; 43920

(2) Having first obtained that certification or licensure not 43921
later than December 31, 2007. 43922

(D) Presents proof of a current certificate of clinical 43923
competence in speech-language pathology or audiology that is in 43924
good standing and received from the American 43925
speech-language-hearing association in the area in which licensure 43926
is sought. 43927

Sec. 4753.09. Except as provided in this section and in 43928
section 4753.10 of the Revised Code, a license issued by the board 43929
of speech-language pathology and audiology shall be renewed 43930
biennially in accordance with the standard renewal procedure 43931
contained in Chapter 4745. of the Revised Code. If the application 43932
for renewal is made ~~after~~ one year or longer after the renewal 43933
application is due, the person shall apply for licensure as 43934
provided in section 4753.06 or division (B) ~~or~~, (C), or (D) of 43935
section 4753.08 of the Revised Code. The board shall not renew a 43936
conditional license; however, the board may grant an applicant a 43937
second conditional license. 43938

The board shall establish by rule adopted pursuant to Chapter 43939
119. of the Revised Code the qualifications for license renewal. 43940
Applicants shall demonstrate continued competence, which may 43941
include continuing education, examination, self-evaluation, peer 43942
review, performance appraisal, or practical simulation. The board 43943
may establish other requirements as a condition for license 43944
renewal as considered appropriate by the board. 43945

The board may renew a license which expires while the license 43946
is suspended, but the renewal shall not affect the suspension. The 43947
board shall not renew a license which has been revoked. If a 43948
revoked license is reinstated under section 4753.10 of the Revised 43949
Code after it has expired, the licensee, as a condition of 43950
reinstatement, shall pay a reinstatement fee in the amount equal 43951
to the renewal fee in effect on the last preceding regular renewal 43952
date on which it is reinstated, plus any delinquent fees accrued 43953
from the time of the revocation, if such a fee is prescribed by 43954
the board by rule. ~~A license shall not be renewed six years after~~ 43955
~~the initial date on which the license was granted for a person~~ 43956
~~initially licensed by exemption until that person presents to the~~ 43957
~~board proof of completion of the following requirements:~~ 43958

~~(A) Upon presentation of proof of a bachelor's degree with a major in the area of licensure or successful completion of at least eighteen semester hours of academic credit, or its equivalent as determined by the board by rule for colleges and universities not using semesters, accumulated from accredited colleges and universities. These eighteen semester hours shall be in a variety of courses that provide instruction related to the nature of communication disorders and present information pertaining to and training in the evaluation and management of speech, language, and hearing disorders and shall be in the professional area, speech language pathology or audiology, for which licensure is requested.~~

~~(B) Successful completion of at least one hundred fifty clock hours of appropriately supervised, as determined by board rule, clinical experience in the professional area, speech language pathology or audiology, for which licensure is requested, with individuals who present a variety of communication disorders, and the experience shall have been obtained under the supervision of a licensed speech language pathologist or audiologist, or within another program approved by the board.~~

Sec. 4755.48. (A) No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.

(B) No person shall practice or in any way claim to the public to be able to practice physical therapy, including practice as a physical therapist assistant, unless the person holds a valid license under sections 4755.40 to 4755.56 of the Revised Code or except as provided in section 4755.56 of the Revised Code.

(C) No person shall use the words or letters, physical therapist, physical therapy, physiotherapist, licensed physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., D.P.T.,

M.S.P.T., P.T.A., physical therapy assistant, physical therapist
assistant, physical therapy technician, licensed physical
therapist assistant, L.P.T.A., R.P.T.A., or any other letters,
words, abbreviations, or insignia, indicating or implying that the
person is a physical therapist or physical therapist assistant
without a valid license under sections 4755.40 to 4755.56 of the
Revised Code.

(D) No person who practices physical therapy or assists in
the provision of physical therapy treatments under the supervision
of a physical therapist shall fail to display the person's current
license granted under sections 4755.40 to 4755.56 of the Revised
Code in a conspicuous location in the place where the person
spends the major part of the person's time so engaged.

(E) Nothing in sections 4755.40 to 4755.56 of the Revised
Code shall affect or interfere with the performance of the duties
of any physical therapist or physical therapist assistant in
active service in the army, navy, coast guard, marine corps, air
force, public health service, or marine hospital service of the
United States, while so serving.

(F) No person shall practice physical therapy other than on
the prescription of, or the referral of a patient by, a person who
is licensed in this or another state to practice medicine and
surgery, chiropractic, dentistry, osteopathic medicine and
surgery, podiatric medicine and surgery, or to practice nursing as
a certified registered nurse anesthetist, clinical nurse
specialist, certified nurse-midwife, or certified nurse
practitioner, within the scope of such practices, and whose
license is in good standing, unless either of the following
conditions is met:

(1) The person holds a master's or doctorate degree from a
professional physical therapy program that is accredited by a

national accreditation agency recognized by the United States 44021
department of education and by the Ohio occupational therapy, 44022
physical therapy, and athletic trainers board. 44023

(2) On or before December 31, ~~2003~~ 2004, the person has 44024
completed at least two years of practical experience as a licensed 44025
physical therapist. 44026

(G) In the prosecution of any person for violation of 44027
division (B) or (C) of this section, it is not necessary to allege 44028
or prove want of a valid license to practice physical therapy or 44029
to practice as a physical therapist assistant, but such matters 44030
shall be a matter of defense to be established by the accused. 44031

Sec. 4775.04. (A) The board of motor vehicle collision repair 44032
registration shall do all of the following: 44033

(1) Adopt rules as necessary to carry out the purposes of 44034
this chapter. The rules shall include requirements for the type of 44035
liability insurance required under division (A) of section 4775.07 44036
of the Revised Code. The rules shall permit the use of an 44037
insurance policy issued by any insurer authorized to issue that 44038
type of insurance in this state. 44039

(2) Appoint an executive director to serve at the pleasure of 44040
the board; 44041

(3) Direct the executive director as to how the executive 44042
director shall perform the duties imposed under this chapter; 44043

(4) Consider and make recommendations in regard to all 44044
matters submitted to the board by the executive director; 44045

(5) Through the executive director or its enforcement agents, 44046
work with appropriate local fire departments and appropriate local 44047
certified building departments to locate persons operating places 44048
of business as a motor vehicle collision repair operator without a 44049
temporary or regular registration certificate issued under this 44050

chapter for that place of business; 44051

(6) Determine whether to refuse to issue or renew a 44052
registration certificate or determine whether to waive a 44053
suspension of a registration certificate as provided in division 44054
(D) of section 4775.07 of the Revised Code; 44055

~~(6)~~(7) Do all acts and perform all functions as are necessary 44056
for the administration and enforcement of this chapter. 44057

(B) Nothing in this chapter shall be interpreted as granting 44058
the board any authority over a motor vehicle collision repair 44059
operator concerning the quality of work performed in the repair 44060
of, or installation of parts on, motor vehicles. 44061

Sec. 4905.10. (A) For the sole purpose of maintaining and 44062
administering the public utilities commission and exercising its 44063
supervision and jurisdiction over the railroads and public 44064
utilities of this state, an amount equivalent to the appropriation 44065
from the public utilities fund created under division (B) of this 44066
section to the public utilities commission for railroad and public 44067
utilities regulation in each fiscal year shall be apportioned 44068
among and assessed against each railroad and public utility within 44069
this state by the commission by first computing an assessment as 44070
though it were to be made in proportion to the intrastate gross 44071
earnings or receipts, excluding earnings or receipts from sales to 44072
other public utilities for resale, of the railroad or public 44073
utility for the calendar year next preceding that in which the 44074
assessment is made. The commission may include in that first 44075
computation any amount of a railroad's or public utility's 44076
intrastate gross earnings or receipts that were underreported in a 44077
prior year. In addition to whatever penalties apply under the 44078
Revised Code to such underreporting, the commission shall assess 44079
the railroad or public utility interest at the rate stated in 44080
division (A) of section 1343.01 of the Revised Code. The 44081

commission shall deposit any interest so collected into the public 44082
utilities fund. The commission may exclude from that first 44083
computation any such amounts that were overreported in a prior 44084
year. 44085

The final computation of the assessment shall consist of 44086
imposing upon each railroad and public utility whose assessment 44087
under the first computation would have been ~~fifty~~ one hundred 44088
dollars or less an assessment of ~~fifty~~ one hundred dollars and 44089
recomputing the assessments of the remaining railroads and public 44090
utilities by apportioning an amount equal to the appropriation to 44091
the public utilities commission for administration of the 44092
utilities division in each fiscal year less the total amount to be 44093
recovered from those paying the minimum assessment, in proportion 44094
to the intrastate gross earnings or receipts of the remaining 44095
railroads and public utilities for the calendar year next 44096
preceding that in which the assessments are made. 44097

In the case of an assessment based on intrastate gross 44098
receipts under this section against a public utility that is an 44099
electric utility as defined in section 4928.01 of the Revised 44100
Code, or an electric services company, electric cooperative, or 44101
governmental aggregator subject to certification under section 44102
4928.08 of the Revised Code, such receipts shall be those 44103
specified in the utility's, company's, cooperative's, or 44104
aggregator's most recent report of intrastate gross receipts and 44105
sales of kilowatt hours of electricity, filed with the commission 44106
pursuant to division (F) of section 4928.06 of the Revised Code, 44107
and verified by the commission. 44108

In the case of an assessment based on intrastate gross 44109
receipts under this section against a retail natural gas supplier 44110
or governmental aggregator subject to certification under section 44111
4929.20 of the Revised Code, such receipts shall be those 44112
specified in the supplier's or aggregator's most recent report of 44113

intrastate gross receipts and sales of hundred cubic feet of 44114
natural gas, filed with the commission pursuant to division (B) of 44115
section 4929.23 of the Revised Code, and verified by the 44116
commission. However, no such retail natural gas supplier or such 44117
governmental aggregator serving or proposing to serve customers of 44118
a particular natural gas company, as defined in section 4929.01 of 44119
the Revised Code, shall be assessed under this section until after 44120
the commission, pursuant to section 4905.26 or 4909.18 of the 44121
Revised Code, has removed from the base rates of the natural gas 44122
company the amount of assessment under this section that is 44123
attributable to the value of commodity sales service, as defined 44124
in section 4929.01 of the Revised Code, in the base rates paid by 44125
those customers of the company that do not purchase that service 44126
from the natural gas company. 44127

(B) ~~On~~ Through calendar year 2005, on or before the first day 44128
of October in each year, the commission shall notify each such 44129
railroad and public utility of the sum assessed against it, 44130
whereupon payment shall be made to the commission, which shall 44131
deposit it into the state treasury to the credit of the public 44132
utilities fund, which is hereby created. Beginning in calendar 44133
year 2006, on or before the fifteenth day of May in each year, the 44134
commission shall notify each railroad and public utility that had 44135
a sum assessed against it for the current fiscal year of more than 44136
one thousand dollars that fifty per cent of that amount shall be 44137
paid to the commission by the twentieth day of June of that year 44138
as an initial payment of the assessment against the company for 44139
the next fiscal year. On or before the first day of October in 44140
each year, the commission shall make a final determination of the 44141
sum of the assessment against each railroad and public utility and 44142
shall notify each railroad and public utility of the sum assessed 44143
against it. The commission shall deduct from the assessment for 44144
each railroad or public utility any initial payment received. 44145

Payment of the assessment shall be made to the commission by the 44146
first day of November of that year. The commission shall deposit 44147
the payments received into the state treasury to the credit of the 44148
public utilities fund. Any such amounts paid into the fund but not 44149
expended by the commission shall be credited ratably, after first 44150
deducting any deficits accumulated from prior years, by the 44151
commission to railroads and public utilities that pay more than 44152
the minimum assessment, according to the respective portions of 44153
such sum assessable against them for the ensuing ~~calendar~~ fiscal 44154
year. The assessments for such ~~calendar~~ fiscal year shall be 44155
reduced correspondingly. 44156

(C) Within five days after the beginning of each fiscal year 44157
through fiscal year 2006, the director of budget and management 44158
shall transfer from the general revenue fund to the public 44159
utilities fund an amount sufficient for maintaining and 44160
administering the public utilities commission and exercising its 44161
supervision and jurisdiction over the railroads and public 44162
utilities of the state during the first four months of the fiscal 44163
year. The director shall transfer the same amount back to the 44164
general revenue fund from the public utilities fund at such time 44165
as the director determines that the balance of the public 44166
utilities fund is sufficient to support the appropriations from 44167
the fund for the fiscal year. The director may transfer less than 44168
that amount if the director determines that the revenues of the 44169
public utilities fund during the fiscal year will be insufficient 44170
to support the appropriations from the fund for the fiscal year, 44171
in which case the amount not paid back to the general revenue fund 44172
shall be payable to the general revenue fund in future fiscal 44173
years. 44174

(D) For the purpose of this section only, "public utility" 44175
includes: 44176

(1) In addition to an electric utility as defined in section 44177

4928.01 of the Revised Code, an electric services company, an 44178
electric cooperative, or a governmental aggregator subject to 44179
certification under section 4928.08 of the Revised Code, to the 44180
extent of the company's, cooperative's, or aggregator's engagement 44181
in the business of supplying or arranging for the supply in this 44182
state of any retail electric service for which it must be so 44183
certified; 44184

(2) In addition to a natural gas company as defined in 44185
section 4929.01 of the Revised Code, a retail natural gas supplier 44186
or governmental aggregator subject to certification under section 44187
4929.20 of the Revised Code, to the extent of the supplier's or 44188
aggregator's engagement in the business of supplying or arranging 44189
for the supply in this state of any competitive retail natural gas 44190
service for which it must be certified. 44191

(E) Each public utilities commissioner shall receive a salary 44192
fixed at the level set by pay range 49 under schedule E-2 of 44193
section 124.152 of the Revised Code. 44194

Sec. 4905.261. The public utilities commission shall operate 44195
a telephone call center for consumer complaints, to receive 44196
complaints by any person, firm, or corporation against any public 44197
utility. 44198

Sec. 4905.54. Every public utility or railroad and every 44199
officer of a public utility or railroad shall comply with every 44200
order, direction, and requirement of the public utilities 44201
commission made under authority of this chapter and Chapters 44202
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, 44203
so long as they remain in force. Except as otherwise specifically 44204
provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 44205
4923.99 of the Revised Code, the public utilities commission may 44206
assess a forfeiture of not more than ten thousand dollars for each 44207

violation or failure against a public utility or railroad that 44208
violates a provision of those chapters or that after due notice 44209
fails to comply with an order, direction, or requirement of the 44210
commission that was officially promulgated ~~shall forfeit to the~~ 44211
~~state not more than one thousand dollars for each such violation~~ 44212
~~or failure~~. Each day's continuance of the violation or failure is 44213
a separate offense. All forfeitures collected under this section 44214
shall be credited to the general revenue fund. 44215

Sec. 4905.95. (A) Except as otherwise provided in division 44216
(C) of this section: 44217

(1) The public utilities commission, regarding any proceeding 44218
under this section, shall provide reasonable notice and the 44219
opportunity for a hearing in accordance with rules adopted under 44220
section 4901.13 of the Revised Code. 44221

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 44222
4903.20 to 4903.23 of the Revised Code apply to all proceedings 44223
and orders of the commission under this section and to all 44224
operators subject to those proceedings and orders. 44225

(B) If, pursuant to a proceeding it specially initiates or to 44226
any other proceeding and after the hearing provided for under 44227
division (A) of this section, the commission finds that: 44228

(1) An operator has violated or failed to comply with, or is 44229
violating or failing to comply with, sections 4905.90 to 4905.96 44230
of the Revised Code or the pipe-line safety code, the commission 44231
by order: 44232

(a) Shall require the operator to comply and to undertake 44233
corrective action necessary to protect the public safety; 44234

(b) May assess upon the operator forfeitures of not more than 44235
~~ten~~ one hundred thousand dollars for each day of each violation or 44236
noncompliance, except that the aggregate of such forfeitures shall 44237

not exceed five hundred thousand dollars for any related series of 44238
violations or noncompliances. In determining the amount of any 44239
such forfeiture, the commission shall consider all of the 44240
following: 44241

(i) The gravity of the violation or noncompliance; 44242

(ii) The operator's history of prior violations or 44243
noncompliances; 44244

(iii) The operator's good faith efforts to comply and 44245
undertake corrective action; 44246

(iv) The operator's ability to pay the forfeiture; 44247

(v) The effect of the forfeiture on the operator's ability to 44248
continue as an operator; 44249

(vi) Such other matters as justice may require. 44250

All forfeitures collected under this division or section 4905.96 44251
of the Revised Code shall be deposited in the state treasury to 44252
the credit of the general revenue fund. 44253

(c) May direct the attorney general to seek the remedies 44254
provided in section 4905.96 of the Revised Code. 44255

(2) An intrastate pipe-line transportation facility is 44256
hazardous to life or property, the commission by order: 44257

(a) Shall require the operator of the facility to take 44258
corrective action to remove the hazard. Such corrective action may 44259
include suspended or restricted use of the facility, physical 44260
inspection, testing, repair, replacement, or other action. 44261

(b) May direct the attorney general to seek the remedies 44262
provided in section 4905.96 of the Revised Code. 44263

(C) If, pursuant to a proceeding it specially initiates or to 44264
any other proceeding, the commission finds that an emergency 44265
exists due to a condition on an intrastate pipe-line 44266

transportation facility posing a clear and immediate danger to 44267
life or health or threatening a significant loss of property and 44268
requiring immediate corrective action to protect the public 44269
safety, the commission may issue, without notice or prior hearing, 44270
an order reciting its finding and may direct the attorney general 44271
to seek the remedies provided in section 4905.96 of the Revised 44272
Code. The order shall remain in effect for not more than forty 44273
days after the date of its issuance. The order shall provide for a 44274
hearing as soon as possible, but not later than thirty days after 44275
the date of its issuance. After the hearing the commission shall 44276
continue, revoke, or modify the order and may make findings under 44277
and seek appropriate remedies as provided in division (B) of this 44278
section. 44279

Sec. 4911.02. (A) The consumers' counsel shall be appointed 44280
by the consumers' counsel governing board, and shall hold office 44281
at the pleasure of the board. 44282

(B)(1) The counsel may sue or be sued and has the powers and 44283
duties granted ~~him~~ the counsel under this chapter, and all 44284
necessary powers to carry out the purposes of this chapter. 44285

(2) Without limitation because of enumeration, the counsel: 44286

(a) Shall have all the rights and powers of any party in 44287
interest appearing before the public utilities commission 44288
regarding examination and cross-examination of witnesses, 44289
presentation of evidence, and other matters; 44290

(b) May take appropriate action with respect to written 44291
residential consumer complaints concerning quality of service, 44292
service charges, and the operation of the public utilities 44293
commission; 44294

(c) May institute, intervene in, or otherwise participate in 44295
proceedings in both state and federal courts and administrative 44296

agencies on behalf of the residential consumers concerning review 44297
of decisions rendered by, or failure to act by, the public 44298
utilities commission; 44299

(d) May conduct long range studies concerning various topics 44300
relevant to the rates charged to ~~residential~~ residential consumers. 44301

Sec. 4911.021. The consumers' counsel shall not operate a 44302
telephone call consumer response center for residential consumer 44303
complaints. Any calls received by the consumers' counsel 44304
concerning residential consumer complaints shall be forwarded to 44305
the public utilities commission's call center. 44306

Sec. 4911.18. (A) For the sole purpose of maintaining and 44307
administering the office of the consumers' counsel and exercising 44308
the powers of the consumers' counsel under this chapter, an amount 44309
equal to the appropriation to the office of the consumers' counsel 44310
in each fiscal year shall be apportioned among and assessed 44311
against each public utility within this state, as defined in 44312
section 4911.01 of the Revised Code, by first computing an 44313
assessment as though it were to be made in proportion to the 44314
intrastate gross earnings or receipts of the public utility for 44315
the calendar year next preceding that in which the assessment is 44316
made, excluding earnings or receipts from sales to other public 44317
utilities for resale. The office may include in that first 44318
computation any amount of a public utility's intrastate gross 44319
earnings or receipts underreported in a prior year. In addition to 44320
whatever penalties apply under the Revised Code to such 44321
underreporting, the office shall assess the public utility 44322
interest at the rate stated in division (A) of section 1343.01 of 44323
the Revised Code. The office shall deposit any interest so 44324
collected into the consumers' counsel operating fund. The office 44325
may exclude from that first computation any such amounts that were 44326

over-reported in a prior year. 44327

The final computation of the assessment shall consist of 44328
imposing upon each public utility whose assessment under the first 44329
computation would have been ~~fifty~~ one hundred dollars or less an 44330
assessment of ~~fifty~~ one hundred dollars and recomputing the 44331
assessment of the remaining companies by apportioning an amount 44332
equal to the appropriation to the office of consumers' counsel in 44333
each fiscal year less the total amount to be recovered from those 44334
paying the minimum assessment, in proportion to the intrastate 44335
gross earnings or receipts of the remaining companies for the 44336
calendar year next preceding that in which the assessments are 44337
made, excluding earnings or receipts from sales to other public 44338
utilities for resale. 44339

In the case of an assessment based on intrastate gross 44340
receipts under this section against a public utility that is an 44341
electric utility as defined in section 4928.01 of the Revised 44342
Code, or an electric services company, electric cooperative, or 44343
governmental aggregator subject to certification under section 44344
4928.08 of the Revised Code, such receipts shall be those 44345
specified in the utility's, company's, cooperative's, or 44346
aggregator's most recent report of intrastate gross receipts and 44347
sales of kilowatt hours of electricity, filed with the public 44348
utilities commission pursuant to division (F) of section 4928.06 44349
of the Revised Code, and verified by the commission. 44350

In the case of an assessment based on intrastate gross 44351
receipts under this section against a retail natural gas supplier 44352
or governmental aggregator subject to certification under section 44353
4929.20 of the Revised Code, such receipts shall be those 44354
specified in the supplier's or aggregator's most recent report of 44355
intrastate gross receipts and sales of hundred cubic feet of 44356
natural gas, filed with the commission pursuant to division (B) of 44357
section 4929.23 of the Revised Code, and verified by the 44358

commission. However, no such retail natural gas supplier or such
governmental aggregator serving or proposing to serve customers of
a particular natural gas company, as defined in section 4929.01 of
the Revised Code, shall be assessed under this section until after
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 office of consumers' counsel shall
notify each public utility of the sum assessed against it,
whereupon payment shall be made to the counsel, who shall deposit
it into the state treasury to the credit of the consumers' counsel
operating fund, which is hereby created. Beginning in calendar
year 2006, on or before the fifteenth day of May in each year, the
consumers' counsel shall notify each 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 consumers' counsel 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 consumers' counsel shall make a final determination
of the sum of the assessment against each public utility and shall
notify each public utility of the sum assessed against it. The
consumers' counsel shall deduct from the assessment for each
public utility any initial payment received. Payment of the
assessment shall be made to the consumers' counsel by the first
day of November of that year. The consumers' counsel shall deposit
the payments received into the state treasury to the credit of the

consumers' counsel operating fund. Any such amounts paid into the 44391
fund but not expended by the office shall be credited ratably by 44392
the office to the public utilities that pay more than the minimum 44393
assessment, according to the respective portions of such sum 44394
assessable against them for the ensuing ~~calendar~~ fiscal year, 44395
after first deducting any deficits accumulated from prior years. 44396
The assessments for such ~~calendar~~ fiscal year shall be reduced 44397
correspondingly. 44398

(C) Within five days after the beginning of each fiscal year 44399
through fiscal year 2006, the director of budget and management 44400
shall transfer from the general revenue fund to the consumers' 44401
counsel operating fund an amount sufficient for maintaining and 44402
administering the office of the consumers' counsel and exercising 44403
the powers of the consumers' counsel under this chapter during the 44404
first four months of the fiscal year. Not later than the 44405
thirty-first day of December of the fiscal year, the same amount 44406
shall be transferred back to the general revenue fund from the 44407
consumers' counsel operating fund. 44408

(D) As used in this section, "public utility" includes: 44409

(1) In addition to an electric utility as defined in section 44410
4928.01 of the Revised Code, an electric services company, an 44411
electric cooperative, or a governmental aggregator subject to 44412
certification under section 4928.08 of the Revised Code, to the 44413
extent of the company's, cooperative's, or aggregator's engagement 44414
in the business of supplying or arranging for the supply in this 44415
state of any retail electric service for which it must be so 44416
certified; 44417

(2) In addition to a natural gas company as defined in 44418
section 4929.01 of the Revised Code, a retail natural gas supplier 44419
or governmental aggregator subject to certification under section 44420
4929.20 of the Revised Code, to the extent of the supplier's or 44421
aggregator's engagement in the business of supplying or arranging 44422

for the supply in this state of any competitive retail natural gas 44423
service for which it must be certified. 44424

Sec. 4973.171. (A) As used in this section, "felony" has the 44425
same meaning as in section 109.511 of the Revised Code. 44426

(B)(1) The ~~governor~~ secretary of state shall not appoint or 44427
commission a person as a police officer for a railroad company 44428
under division (B) of section 4973.17 of the Revised Code and 44429
shall not appoint or commission a person as a police officer for a 44430
hospital under division (D) of section 4973.17 of the Revised Code 44431
on a permanent basis, on a temporary basis, for a probationary 44432
term, or on other than a permanent basis if the person previously 44433
has been convicted of or has pleaded guilty to a felony. 44434

(2)(a) The ~~governor~~ secretary of state shall revoke the 44435
appointment or commission of a person appointed or commissioned as 44436
a police officer for a railroad company or as a police officer for 44437
a hospital under division (B) or (D) of section 4973.17 of the 44438
Revised Code if that person does either of the following: 44439

(i) Pleads guilty to a felony; 44440

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 44441
plea agreement as provided in division (D) of section 2929.43 of 44442
the Revised Code in which the person agrees to surrender the 44443
certificate awarded to that person under section 109.77 of the 44444
Revised Code. 44445

(b) The ~~governor~~ secretary of state shall suspend the 44446
appointment or commission of a person appointed or commissioned as 44447
a police officer for a railroad company or as a police officer for 44448
a hospital under division (B) or (D) of section 4973.17 of the 44449
Revised Code if that person is convicted, after trial, of a 44450
felony. If the person files an appeal from that conviction and the 44451
conviction is upheld by the highest court to which the appeal is 44452

taken or if the person does not file a timely appeal, the ~~governor~~ 44453
secretary of state shall revoke the appointment or commission of 44454
that person as a police officer for a railroad company or as a 44455
police officer for a hospital. If the person files an appeal that 44456
results in that person's acquittal of the felony or conviction of 44457
a misdemeanor, or in the dismissal of the felony charge against 44458
that person, the ~~governor~~ secretary of state shall reinstate the 44459
appointment or commission of that person as a police officer for a 44460
railroad company or as a police officer for a hospital. A person 44461
whose appointment or commission is reinstated under division 44462
(B)(2)(b) of this section shall not receive any back pay unless 44463
that person's conviction of the felony was reversed on appeal, or 44464
the felony charge was dismissed, because the court found 44465
insufficient evidence to convict the person of the felony. 44466

(3) Division (B) of this section does not apply regarding an 44467
offense that was committed prior to January 1, 1997. 44468

(4) The suspension or revocation of the appointment or 44469
commission of a person as a police officer for a railroad company 44470
or as a police officer for a hospital under division (B)(2) of 44471
this section shall be in accordance with Chapter 119. of the 44472
Revised Code. 44473

Sec. 5101.07. There is hereby created in the state treasury 44474
the support services federal operating fund. The fund shall 44475
consist of federal funds the department of job and family services 44476
receives and that the director of job and family services 44477
determines are appropriate for deposit into the fund. Money in the 44478
fund shall be used to pay the federal share of both of the 44479
following: 44480

(A) The department's costs for computer projects; 44481

(B) The operating costs of the parts of the department that 44482
provide general support services for the department's work units 44483

established under section 5101.06 of the Revised Code. 44484

Sec. 5101.071. There is hereby created in the state treasury 44485
the support services state operating fund. The fund shall consist 44486
of payments made to the fund from other appropriation items by 44487
intrastate transfer voucher. Money in the fund shall be used to 44488
pay for both of the following: 44489

(A) The department of job and family services' costs for 44490
computer projects; 44491

(B) The operating costs of the parts of the department that 44492
provide general support services for the department's work units 44493
established under section 5101.06 of the Revised Code. 44494

Sec. 5101.16. (A) As used in this section and sections 44495
5101.161 and 5101.162 of the Revised Code: 44496

(1) "Disability financial assistance" means the financial 44497
assistance program established under Chapter 5115. of the Revised 44498
Code. 44499

(2) "Disability medical assistance" means the medical 44500
assistance program established under Chapter 5115. of the Revised 44501
Code. 44502

(3) "Food stamps" means the program administered by the 44503
department of job and family services pursuant to section 5101.54 44504
of the Revised Code. 44505

(4) "Medicaid" means the medical assistance program 44506
established by Chapter 5111. of the Revised Code, excluding 44507
transportation services provided under that chapter. 44508

(5) "Ohio works first" means the program established by 44509
Chapter 5107. of the Revised Code. 44510

(6) "Prevention, retention, and contingency" means the 44511

program established by Chapter 5108. of the Revised Code.	44512
(7) "Public assistance expenditures" means expenditures for	44513
all of the following:	44514
(a) Ohio works first;	44515
(b) County administration of Ohio works first;	44516
(c) Prevention, retention, and contingency;	44517
(d) County administration of prevention, retention, and	44518
contingency;	44519
(e) Disability financial assistance;	44520
(f) Disability medical assistance;	44521
(g) County administration of disability financial assistance;	44522
(h) County administration of disability medical assistance;	44523
(i) County administration of food stamps;	44524
(j) County administration of medicaid.	44525
(8) "Title IV-A program" has the same meaning as in section	44526
5101.80 of the Revised Code.	44527
(B) Each board of county commissioners shall pay the county	44528
share of public assistance expenditures in accordance with section	44529
5101.161 of the Revised Code. Except as provided in division (C)	44530
of this section, a county's share of public assistance	44531
expenditures is the sum of all of the following for state fiscal	44532
year 1998 and each state fiscal year thereafter:	44533
(1) The amount that is twenty-five per cent of the county's	44534
total expenditures for disability financial assistance and	44535
disability medical assistance and county administration of those	44536
programs during the state fiscal year ending in the previous	44537
calendar year that the department of job and family services	44538
determines are allowable.	44539

(2) The amount that is ten per cent, or other percentage 44540
determined under division (D) of this section, of the county's 44541
total expenditures for county administration of food stamps and 44542
medicaid during the state fiscal year ending in the previous 44543
calendar year that the department determines are allowable, less 44544
the amount of federal reimbursement credited to the county under 44545
division (E) of this section for the state fiscal year ending in 44546
the previous calendar year; 44547

(3) A percentage of the actual amount of the county share of 44548
program and administrative expenditures during federal fiscal year 44549
1994 for assistance and services, other than child care, provided 44550
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 44551
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 44552
enactment of the "Personal Responsibility and Work Opportunity 44553
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 44554
and family services shall determine the actual amount of the 44555
county share from expenditure reports submitted to the United 44556
States department of health and human services. The percentage 44557
shall be the percentage established in rules adopted under 44558
division (F) of this section. 44559

(C)(1) If a county's share of public assistance expenditures 44560
determined under division (B) of this section for a state fiscal 44561
year exceeds one hundred ten per cent of the county's share for 44562
those expenditures for the immediately preceding state fiscal 44563
year, the department of job and family services shall reduce the 44564
county's share for expenditures under divisions (B)(1) and (2) of 44565
this section so that the total of the county's share for 44566
expenditures under division (B) of this section equals one hundred 44567
ten per cent of the county's share of those expenditures for the 44568
immediately preceding state fiscal year. 44569

(2) A county's share of public assistance expenditures 44570
determined under division (B) of this section may be increased 44571

pursuant to section 5101.163 of the Revised Code and a sanction 44572
under section 5101.24 of the Revised Code. An increase made 44573
pursuant to section 5101.163 of the Revised Code may cause the 44574
county's share to exceed the limit established by division (C)(1) 44575
of this section. 44576

(D)(1) If the per capita tax duplicate of a county is less 44577
than the per capita tax duplicate of the state as a whole and 44578
division (D)(2) of this section does not apply to the county, the 44579
percentage to be used for the purpose of division (B)(2) of this 44580
section is the product of ten multiplied by a fraction of which 44581
the numerator is the per capita tax duplicate of the county and 44582
the denominator is the per capita tax duplicate of the state as a 44583
whole. The department of job and family services shall compute the 44584
per capita tax duplicate for the state and for each county by 44585
dividing the tax duplicate for the most recent available year by 44586
the current estimate of population prepared by the department of 44587
development. 44588

(2) If the percentage of families in a county with an annual 44589
income of less than three thousand dollars is greater than the 44590
percentage of such families in the state and division (D)(1) of 44591
this section does not apply to the county, the percentage to be 44592
used for the purpose of division (B)(2) of this section is the 44593
product of ten multiplied by a fraction of which the numerator is 44594
the percentage of families in the state with an annual income of 44595
less than three thousand dollars a year and the denominator is the 44596
percentage of such families in the county. The department of job 44597
and family services shall compute the percentage of families with 44598
an annual income of less than three thousand dollars for the state 44599
and for each county by multiplying the most recent estimate of 44600
such families published by the department of development, by a 44601
fraction, the numerator of which is the estimate of average annual 44602
personal income published by the bureau of economic analysis of 44603

the United States department of commerce for the year on which the
census estimate is based and the denominator of which is the most
recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than
the per capita tax duplicate of the state as a whole and the
percentage of families in the county with an annual income of less
than three thousand dollars is greater than the percentage of such
families in the state, the percentage to be used for the purpose
of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division
(D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a)
of this section by the fraction determined under division (D)(2)
of this section.

(4) The department of job and family services shall
determine, for each county, the percentage to be used for the
purpose of division (B)(2) of this section not later than the
first day of July of the year preceding the state fiscal year for
which the percentage is used.

(E) The department of job and family services shall credit to
a county the amount of federal reimbursement the department
receives from the United States departments of agriculture and
health and human services for the county's expenditures for
administration of food stamps and medicaid that the department
determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt
rules in accordance with section 111.15 of the Revised Code to
establish all of the following:

(a) The method the department is to use to change a county's
share of public assistance expenditures determined under division

(B) of this section as provided in division (C) of this section; 44634

(b) The allocation methodology and formula the department 44635
will use to determine the amount of funds to credit to a county 44636
under this section; 44637

(c) The method the department will use to change the payment 44638
of the county share of public assistance expenditures from a 44639
calendar-year basis to a state fiscal year basis; 44640

(d) The percentage to be used for the purpose of division 44641
(B)(3) of this section, which shall, except as provided in section 44642
5101.163 of the Revised Code, meet both of the following 44643
requirements: 44644

(i) The percentage shall not be less than seventy-five per 44645
cent nor more than eighty-two per cent; 44646

(ii) The percentage shall not exceed the percentage that the 44647
state's qualified state expenditures is of the state's historic 44648
state expenditures as those terms are defined in 42 U.S.C. 44649
609(a)(7). 44650

(e) Other procedures and requirements necessary to implement 44651
this section. 44652

(2) The director of job and family services may amend the 44653
rule adopted under division (F)(1)(d) of this section to modify 44654
the percentage on determination that the amount the general 44655
assembly appropriates for Title IV-A programs makes the 44656
modification necessary. The rule shall be adopted and amended as 44657
if an internal management rule and in consultation with the 44658
director of budget and management. 44659

Sec. 5101.163. As used in this section, "maintenance of 44660
effort" means qualified state expenditures as defined in 42 U.S.C. 44661
609(a)(7)(B)(i). 44662

The department of job and family services may increase a 44663
county's share of public assistance expenditures determined under 44664
division (B) of section 5101.16 of the Revised Code if the United 44665
States secretary of health and human services requires an increase 44666
in the state's maintenance of effort because of one or more 44667
failures, resulting from the actions or inactions of one or more 44668
county family services agencies, to meet a requirement under Title 44669
IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 44670
U.S.C. 601, as amended. The department may so increase a county's 44671
share of public assistance expenditures only to the amount the 44672
county's county family services agencies are responsible for the 44673
increase in the state's maintenance of effort as determined 44674
pursuant to rules the director of job and family services shall 44675
adopt under section 111.15 of the Revised Code. The department is 44676
not required to make the increase in accordance with section 44677
5101.24 of the Revised Code. 44678

Sec. 5101.181. (A) As used in this section and section 44679
5101.182 of the Revised Code, "public assistance" includes, in 44680
addition to Ohio works first, all of the following: 44681

(1) Prevention, retention, and contingency; 44682

(2) Medicaid; 44683

(3) Disability financial assistance; 44684

(4) Disability medical assistance provided before October 1, 44685
2005, under former Chapter 5115. of the Revised Code; 44686

(5) General assistance provided prior to July 17, 1995, under 44687
former Chapter 5113. of the Revised Code. 44688

(B) As part of the procedure for the determination of 44689
overpayment to a recipient of public assistance under Chapter 44690
5107., 5108., 5111., or 5115. of the Revised Code, the director of 44691
job and family services shall furnish quarterly the name and 44692

social security number of each individual who receives public
assistance to the director of administrative services, the
administrator of the bureau of workers' compensation, and each of
the state's retirement boards. Within fourteen days after
receiving the name and social security number of an individual who
receives public assistance, the director of administrative
services, administrator, or board shall inform the auditor of
state as to whether such individual is receiving wages or
benefits, the amount of any wages or benefits being received, the
social security number, and the address of the individual. The
director of administrative services, administrator, boards, and
any agent or employee of those officials and boards shall comply
with the rules of the director of job and family services
restricting the disclosure of information regarding recipients of
public assistance. Any person who violates this provision shall
thereafter be disqualified from acting as an agent or employee or
in any other capacity under appointment or employment of any state
board, commission, or agency.

(C) The auditor of state may enter into a reciprocal
agreement with the director of job and family services or
comparable officer of any other state for the exchange of names,
current or most recent addresses, or social security numbers of
persons receiving public assistance under Title IV-A or under
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42
U.S.C. 301, as amended.

(D)(1) The auditor of state shall retain, for not less than
two years, at least one copy of all information received under
this section and sections 145.27, 742.41, 3307.20, 3309.22,
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor
shall review the information to determine whether overpayments
were made to recipients of public assistance under Chapters 5107.,
5108., 5111., and 5115. of the Revised Code. The auditor of state

shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.21. (A) As used in this section, "county signer" means all of the following:

- (1) A board of county commissioners;
- (2) A county children services board appointed under section

5153.03 of the Revised Code if required by division (B) of this section to enter into a fiscal agreement;

(3) A county elected official that is a child support enforcement agency if required by division (B) of this section to enter into a fiscal agreement.

(B) The director of job and family services may enter into one or more written fiscal agreements with boards of county commissioners under which financial assistance is awarded for family services duties included in the agreements. Boards of county commissioners shall select which family services duties to include in a fiscal agreement. If a board of county commissioners elects to include family services duties of a public children services agency and a county children services board appointed under section 5153.03 of the Revised Code serves as the county's public children services agency, the board of county commissioners and county children services board shall jointly enter into the fiscal agreement with the director. If a board of county commissioners elects to include family services duties of a child support enforcement agency and the entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or designated under section 307.981 of the Revised Code as the county's child support enforcement agency is an elected official of the county, the board of county commissioners and county elected official shall jointly enter into the fiscal agreement with the director. A fiscal agreement shall do all of the following:

(1) Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;

(2) Provide for the department of job and family services to

award financial assistance for the family services duties included 44786
in the agreement in accordance with a methodology for determining 44787
the amount of the award established by rules adopted under 44788
division (D) of this section; 44789

(3) Specify the form of the award of financial assistance 44790
which may be an allocation, cash draw, reimbursement, property, 44791
or, to the extent authorized by an appropriation made by the 44792
general assembly and to the extent practicable and not in conflict 44793
with a federal or state law, a consolidated funding allocation for 44794
two or more family services duties included in the agreement; 44795

(4) Provide that the award of financial assistance is subject 44796
to the availability of federal funds and appropriations made by 44797
the general assembly; 44798

(5) Specify annual financial, administrative, or other 44799
incentive awards, if any, to be provided in accordance with 44800
section 5101.23 of the Revised Code; 44801

(6) Include the assurance of each county signer that the 44802
county signer will do all of the following: 44803

(a) Ensure that the financial assistance awarded under the 44804
agreement is used, and the family services duties included in the 44805
agreement are performed, in accordance with requirements for the 44806
duties established by the department, a federal or state law, or 44807
any of the following that concern the family services duties 44808
included in the fiscal agreement and are published under section 44809
5101.212 of the Revised Code: state plans for receipt of federal 44810
financial participation, grant agreements between the department 44811
and a federal agency, and executive orders issued by the governor; 44812

(b) Ensure that the board and county family services agencies 44813
utilize a financial management system and other accountability 44814
mechanisms for the financial assistance awarded under the 44815
agreement that meet requirements the department establishes; 44816

(c) Require the county family services agencies to do both of 44817
the following: 44818

(i) Monitor all private and government entities that receive 44819
a payment from financial assistance awarded under the agreement to 44820
ensure that each entity uses the payment in accordance with 44821
requirements for the family services duties included in the 44822
agreement; 44823

(ii) Take action to recover payments that are not used in 44824
accordance with the requirements for the family services duties 44825
included in the agreement. 44826

(d) Require county family services agencies to promptly 44827
reimburse the department the amount that represents the amount an 44828
agency is responsible for, pursuant to action the department takes 44829
under division (C) of section 5101.24 of the Revised Code, of 44830
funds the department pays to any entity because of an adverse 44831
audit finding, adverse quality control finding, final disallowance 44832
of federal financial participation, or other sanction or penalty; 44833

(e) Require county family services agencies to take prompt 44834
corrective action, including paying amounts resulting from an 44835
adverse finding, sanction, or penalty, if the department, auditor 44836
of state, federal agency, or other entity authorized by federal or 44837
state law to determine compliance with requirements for a family 44838
services duty included in the agreement determines compliance has 44839
not been achieved+ 44840

~~(f) If the department establishes a consolidated funding 44841
allocation for two or more family services duties included in the 44842
agreement, require the county family services agencies to use 44843
funds available in the consolidated funding allocation only for 44844
the purpose for which the funds are appropriated. 44845~~

(7) Provide for the department taking action pursuant to 44846
division (C) of section 5101.24 of the Revised Code if authorized 44847

by division (B)(1), (2), (3), or (4) of that section; 44848

(8) Provide for timely audits required by federal and state 44849
law and require prompt release of audit findings and prompt action 44850
to correct problems identified in an audit; 44851

(9) Comply with all of the requirements for the family 44852
services duties that are included in the agreement and have been 44853
established by the department, federal or state law, or any of the 44854
following that concern the family services duties included in the 44855
fiscal agreement and are published under section 5101.212 of the 44856
Revised Code: state plans for receipt of federal financial 44857
participation, grant agreements between the department and a 44858
federal agency, and executive orders issued by the governor; 44859

(10) Provide for dispute resolution procedures in accordance 44860
with section 5101.24 of the Revised Code; 44861

(11) Establish the method of amending or terminating the 44862
agreement and an expedited process for correcting terms or 44863
conditions of the agreement that the director and each county 44864
signer agree are erroneous; 44865

(12) Except as provided in rules adopted under division (D) 44866
of this section, begin on the first day of July of an odd-numbered 44867
year and end on the last day of June of the next odd-numbered 44868
year. 44869

(C) The department shall make payments authorized by a fiscal 44870
agreement on vouchers it prepares and may include any funds 44871
appropriated or allocated to it for carrying out family services 44872
duties included in the agreement, including funds for personal 44873
services and maintenance. 44874

(D)(1) The director shall adopt rules in accordance with 44875
section 111.15 of the Revised Code governing fiscal agreements. 44876
The director shall adopt the rules as if they were internal 44877

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:

~~(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,
which may include a time period before the effective date of the
agreement;~~

~~(b)~~ Govern the establishment of ~~other~~ allocations;

~~(e)~~(b) Specify allowable uses of financial assistance awarded
under the agreements;

~~(d)~~(c) Establish reporting, cash management, audit, and other
requirements the director determines are necessary to provide
accountability for the use of financial assistance awarded under
the agreements and determine compliance with requirements
established by the department, a federal or state law, or any of
the following that concern the family services duties included in
the agreements and are published under section 5101.212 of the
Revised Code: state plans for receipt of federal financial
participation, grant agreements between the department and a
federal entity, and executive orders issued by the governor.

(2) A requirement of a fiscal agreement established by a rule
adopted under this division is applicable to a fiscal agreement
without having to be restated in the fiscal agreement.

Sec. 5101.241. (A) As used in this section: 44908

(1) "Local area" and "chief elected official" have the same 44909
meaning as in section 5101.20 of the Revised Code. 44910

(2) "Responsible entity" means the chief elected officials of 44911
a local area. 44912

(B) The department of job and family services may take action 44913
under division (C) of this section against the responsible entity, 44914
regardless of who performs the workforce development activity, if 44915
the department determines any of the following are the case: 44916

(1) A requirement of a grant agreement entered into under 44917
section 5101.20 of the Revised Code that includes the workforce 44918
development activity, including a requirement for grant agreements 44919
established by rules adopted under that section, is not complied 44920
with; 44921

(2) A performance standard for the workforce development 44922
activity established by the federal government or the department 44923
is not met; 44924

(3) A requirement for the workforce development activity 44925
established by the department or any of the following is not 44926
complied with: a federal or state law, state plan for receipt of 44927
federal financial participation, grant agreement between the 44928
department and a federal agency, or executive order; 44929

(4) The responsible entity is solely or partially 44930
responsible, as determined by the director of job and family 44931
services, for an adverse audit finding, adverse quality control 44932
finding, final disallowance of federal financial participation, or 44933
other sanction or penalty regarding the workforce development 44934
activity. 44935

(C) The department may take one or more of the following 44936
actions against the responsible entity when authorized by division 44937

(B)(1), (2), (3), or (4) of this section:	44938
(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;	44939 44940 44941 44942
(2) Require the responsible entity to do one of the following:	44943 44944
(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;	44945 44946
(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;	44947 44948 44949 44950 44951 44952 44953
(c) Pay the federal government or another entity the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;	44954 44955 44956 44957 44958 44959
(d) Pay the department the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, or other sanction or penalty issued by the department.	44960 44961 44962 44963
(3) Impose a financial or administrative sanction or adverse audit finding issued by the department against the responsible entity, which may be increased with each subsequent action taken against the responsible entity- <u>i</u>	44964 44965 44966 44967

(4) Perform or contract with a government or private entity 44968
for the entity to perform the workforce development activity until 44969
the department is satisfied that the responsible entity ensures 44970
that the activity will be performed to the department's 44971
satisfaction. If the department performs or contracts with an 44972
entity to perform the workforce development activity under 44973
division (C)(4) of this section, the department may withhold funds 44974
allocated to or reimbursements due to the responsible entity for 44975
the activity and use those funds to implement division (C)(4) of 44976
this section. 44977

(5) Request the attorney general to bring mandamus 44978
proceedings to compel the responsible entity to take or cease the 44979
actions listed in division (B) of this section. The attorney 44980
general shall bring any mandamus proceedings in the Franklin 44981
county court of appeals at the department's request. 44982

(6) If the department takes action under this division 44983
because of division (B)(3) of this section, withhold funds 44984
allocated or reimbursement due to the responsible entity until the 44985
department determines that the responsible entity is in compliance 44986
with the requirement. The department shall release the funds when 44987
the department determines that compliance has been achieved. 44988

(7) Issue a notice of intent to revoke approval of all or 44989
part of the local plan effected that conflicts with state or 44990
federal law and effectuate the revocation. 44991

(D) The department shall notify the responsible entity and 44992
the appropriate county auditor when the department proposes to 44993
take action under division (C) of this section. The notice shall 44994
be in writing and specify the action the department proposes to 44995
take. The department shall send the notice by regular United 44996
States mail. Except as provided in division (E) of this section, 44997
the responsible entity may request an administrative review of a 44998

proposed action in accordance with administrative review 44999
procedures the department shall establish. The administrative 45000
review procedures shall comply with all of the following: 45001

(1) A request for an administrative review shall state 45002
specifically all of the following: 45003

(a) The proposed action specified in the notice from the 45004
department for which the review is requested; 45005

(b) The reason why the responsible entity believes the 45006
proposed action is inappropriate; 45007

(c) All facts and legal arguments that the responsible entity 45008
wants the department to consider; 45009

(d) The name of the person who will serve as the responsible 45010
entity's representative in the review. 45011

(2) If the department's notice specifies more than one 45012
proposed action and the responsible entity does not specify all of 45013
the proposed actions in its request pursuant to division (D)(1)(a) 45014
of this section, the proposed actions not specified in the request 45015
shall not be subject to administrative review and the parts of the 45016
notice regarding those proposed actions shall be final and binding 45017
on the responsible entity. 45018

(3) ~~In the case of a proposed action under division (C)(1) of~~ 45019
~~this section, the~~ The responsible entity shall have fifteen 45020
calendar days after the department mails the notice to the 45021
responsible entity to send a written request to the department for 45022
an administrative review. ~~If it receives such a request within the~~ 45023
~~required time, the department shall postpone taking action under~~ 45024
~~division (C)(1) of this section for fifteen calendar days~~ 45025
~~following the day it receives the request to allow a~~ 45026
~~representative of the department and a representative of the~~ 45027
~~responsible entity an informal opportunity to resolve any dispute~~ 45028

~~during that fifteen day period. The responsible entity and the~~ 45029
~~department shall attempt to resolve informally any dispute and may~~ 45030
~~develop a written resolution to the dispute at any time prior to~~ 45031
~~submitting the written report described in division (D)(7) of this~~ 45032
~~section to the director.~~ 45033

~~(4) In the case of a proposed action under division (C)(2),~~ 45034
~~(3), or (4) of this section, the responsible entity shall have~~ 45035
~~thirty calendar days after the department mails the notice to the~~ 45036
~~responsible entity to send a written request to the department for~~ 45037
~~an administrative review. If it receives such a request within the~~ 45038
~~required time, the department shall postpone taking action under~~ 45039
~~division (C)(2), (3), or (4) of this section for thirty calendar~~ 45040
~~days following the day it receives the request to allow a~~ 45041
~~representative of the department and a representative of the~~ 45042
~~responsible entity an informal opportunity to resolve any dispute~~ 45043
~~during that thirty day period.~~ 45044

~~(5) In the case of a proposed action under division (C)(2) of~~ 45045
~~this section, the responsible entity may not include in its~~ 45046
~~request disputes over a finding, final disallowance of federal~~ 45047
~~financial participation, or other sanction or penalty issued by~~ 45048
~~the federal government, auditor of state, or other entity other~~ 45049
~~than the department.~~ 45050

~~(6)(5) If the responsible entity fails to request an~~ 45051
~~administrative review within the required time, the responsible~~ 45052
~~entity loses the right to request an administrative review of the~~ 45053
~~proposed actions specified in the notice and the notice becomes~~ 45054
~~final and binding on the responsible entity.~~ 45055

~~(7) If the informal opportunity provided in division (D)(3)~~ 45056
~~or (4) of this section does not result in a written resolution to~~ 45057
~~the dispute, the (6) The director of job and family services shall~~ 45058
~~appoint an administrative review panel to conduct the~~ 45059
~~administrative review. The review panel shall consist of~~ 45060

department employees who are not involved in the department's 45061
proposal to take action against the responsible entity. The review 45062
panel shall review the responsible entity's request. The review 45063
panel may require that the department or responsible entity submit 45064
additional information and schedule and conduct an informal 45065
hearing to obtain testimony or additional evidence. A review of a 45066
proposal to take action under division (C)(2) of this section 45067
shall be limited solely to the issue of the amount the responsible 45068
entity shall share with the department, reimburse the department, 45069
or pay to the federal government, department, or other entity 45070
under division (C)(2) of this section. The review panel is not 45071
required to make a stenographic record of its hearing or other 45072
proceedings. 45073

~~(8)(7)~~ After finishing an administrative review, an 45074
administrative review panel appointed under division (D)~~(7)(6)~~ of 45075
this section shall submit a written report to the director setting 45076
forth its findings of fact, conclusions of law, and 45077
recommendations for action. The director may approve, modify, or 45078
disapprove the recommendations. ~~If the director modifies or~~ 45079
~~disapproves the recommendations, the director shall state the~~ 45080
~~reasons for the modification or disapproval and the actions to be~~ 45081
~~taken against the responsible entity.~~ 45082

~~(9)(8)~~ The director's approval, modification, or disapproval 45083
under division (D)~~(8)(7)~~ of this section shall be final and 45084
binding on the responsible entity and shall not be subject to 45085
further ~~departmental~~ review. 45086

(E) The responsible entity is not entitled to an 45087
administrative review under division (D) of this section for any 45088
of the following: 45089

(1) An action taken under division (C)(5) or (6) of this 45090
section; 45091

(2) An action taken under section 5101.242 of the Revised Code;	45092 45093
(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;	45094 45095 45096 45097 45098 45099
(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;	45100 45101 45102
(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.	45103 45104 45105
(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.	45106 45107 45108 45109 45110
(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.	45111 45112 45113
<u>(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:</u>	45114 45115 45116 45117
<u>(1) Fraud or abuse;</u>	45118
<u>(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</u>	45119 45120 45121

established by the federal government for two consecutive years. 45122

If the governor finds that access to basic "Workforce Investment Act" services is not being provided in a local area, 45123
the governor may declare an emergency and, in consultation with 45124
the chief elected officials of the local area affected, arrange 45125
for provision of these services through an alternative entity 45127
during the time period in which resolution of the problem 45128
preventing service delivery in the local area is pending. An 45129
action taken by the governor pursuant to this section is not 45130
subject to appeal under this section. 45131

Sec. 5101.244. If a county family services agency submits an 45132
expenditure report to the department of job and family services, 45133
the department makes a payment to the agency based on the report, 45134
and the department subsequently determines that the payment 45135
exceeds the allowable amount for the expenditure, the department 45136
may adjust, offset, withhold, or reduce an allocation, cash draw, 45137
advance, reimbursement, or other financial assistance to the 45138
agency as necessary to recover the amount of the excess payment 45139
made to the agency. The department is not required to make the 45140
adjustment, offset, withholding, or reduction in accordance with 45141
section 5101.24 of the Revised Code. 45142

The director of job and family services may adopt rules under 45143
section 111.15 of the Revised Code as necessary to implement this 45144
section. The director shall adopt the rules as if they were 45145
internal management rules. 45146

Sec. 5101.26. As used in this section and in sections 5101.27 45147
to 5101.30 of the Revised Code: 45148

(A) "County agency" means a county department of job and 45149
family services or a public children services agency. 45150

(B) "Fugitive felon" means an individual who is fleeing to 45151

avoid prosecution, or custody or confinement after conviction, 45152
under the laws of the place from which the individual is fleeing, 45153
for a crime or an attempt to commit a crime that is a felony under 45154
the laws of the place from which the individual is fleeing or, in 45155
the case of New Jersey, a high misdemeanor, regardless of whether 45156
the individual has departed from the individual's usual place of 45157
residence. 45158

(C) "Information" means records as defined in section 149.011 45159
of the Revised Code, any other documents in any format, and data 45160
derived from records and documents that are generated, acquired, 45161
or maintained by the department of job and family services, a 45162
county agency, or an entity performing duties on behalf of the 45163
department or a county agency. 45164

(D) "Law enforcement agency" means the state highway patrol, 45165
an agency that employs peace officers as defined in section 109.71 45166
of the Revised Code, the adult parole authority, a county 45167
department of probation, a prosecuting attorney, the attorney 45168
general, similar agencies of other states, federal law enforcement 45169
agencies, and postal inspectors. "Law enforcement agency" includes 45170
the peace officers and other law enforcement officers employed by 45171
the agency. 45172

(E) "Medical assistance provided under a public assistance 45173
program" means medical assistance provided under the programs 45174
established under sections 5101.49, 5101.50 to 5101.503, and 45175
5101.51 to 5101.5110, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any 45176
other provision of the Revised Code. 45177

(F) "Public assistance" means financial assistance, medical 45178
assistance, or social services provided under a program 45179
administered by the department of job and family services or a 45180
county agency pursuant to Chapter 329., 5101., 5104., 5107., 45181
5108., 5111., or 5115. of the Revised Code or an executive order 45182

issued under section 107.17 of the Revised Code. 45183

(G) "Public assistance recipient" means an applicant for or 45184
recipient or former recipient of public assistance. 45185

Sec. 5101.31. Any record, data, pricing information, or other 45186
information regarding a drug rebate agreement or a supplemental 45187
drug rebate agreement for the medicaid program established under 45188
Chapter 5111. of the Revised Code ~~or the disability medical~~ 45189
~~assistance program established under section 5115.10 of the~~ 45190
~~Revised Code~~ that the department of job and family services 45191
receives from a pharmaceutical manufacturer or creates pursuant to 45192
negotiation of the agreement is not a public record under section 45193
149.43 of the Revised Code and shall be treated by the department 45194
as confidential information. 45195

Sec. 5101.35. (A) As used in this section: 45196

(1) "Agency" means the following entities that administer a 45197
family services program: 45198

(a) The department of job and family services; 45199

(b) A county department of job and family services; 45200

(c) A public children services agency; 45201

(d) A private or government entity administering, in whole or 45202
in part, a family services program for or on behalf of the 45203
department of job and family services or a county department of 45204
job and family services or public children services agency. 45205

(2) "Appellant" means an applicant, participant, former 45206
participant, recipient, or former recipient of a family services 45207
program who is entitled by federal or state law to a hearing 45208
regarding a decision or order of the agency that administers the 45209
program. 45210

(3) "Family services program" means assistance provided under 45211
a Title IV-A program as defined in section 5101.80 of the Revised 45212
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 45213
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 45214
Revised Code, other than assistance provided under section 5101.46 45215
of the Revised Code by the department of mental health, the 45216
department of mental retardation and developmental disabilities, a 45217
board of alcohol, drug addiction, and mental health services, or a 45218
county board of mental retardation and developmental disabilities. 45219

(B) Except as provided by division (G) of this section, an 45220
appellant who appeals under federal or state law a decision or 45221
order of an agency administering a family services program shall, 45222
at the appellant's request, be granted a state hearing by the 45223
department of job and family services. This state hearing shall be 45224
conducted in accordance with rules adopted under this section. The 45225
state hearing shall be tape-recorded, but neither the recording 45226
nor a transcript of the recording shall be part of the official 45227
record of the proceeding. A state hearing decision is binding upon 45228
the agency and department, unless it is reversed or modified on 45229
appeal to the director of job and family services or a court of 45230
common pleas. 45231

(C) Except as provided by division (G) of this section, an 45232
appellant who disagrees with a state hearing decision may make an 45233
administrative appeal to the director of job and family services 45234
in accordance with rules adopted under this section. This 45235
administrative appeal does not require a hearing, but the director 45236
or the director's designee shall review the state hearing decision 45237
and previous administrative action and may affirm, modify, remand, 45238
or reverse the state hearing decision. Any person designated to 45239
make an administrative appeal decision on behalf of the director 45240
shall have been admitted to the practice of law in this state. An 45241
administrative appeal decision is the final decision of the 45242

department and is binding upon the department and agency, unless 45243
it is reversed or modified on appeal to the court of common pleas. 45244

(D) An agency shall comply with a decision issued pursuant to 45245
division (B) or (C) of this section within the time limits 45246
established by rules adopted under this section. If a county 45247
department of job and family services or a public children 45248
services agency fails to comply within these time limits, the 45249
department may take action pursuant to section 5101.24 of the 45250
Revised Code. If another agency fails to comply within the time 45251
limits, the department may force compliance by withholding funds 45252
due the agency or imposing another sanction established by rules 45253
adopted under this section. 45254

(E) An appellant who disagrees with an administrative appeal 45255
decision of the director of job and family services or the 45256
director's designee issued under division (C) of this section may 45257
appeal from the decision to the court of common pleas pursuant to 45258
section 119.12 of the Revised Code. The appeal shall be governed 45259
by section 119.12 of the Revised Code except that: 45260

(1) The person may appeal to the court of common pleas of the 45261
county in which the person resides, or to the court of common 45262
pleas of Franklin county if the person does not reside in this 45263
state. 45264

(2) The person may apply to the court for designation as an 45265
indigent and, if the court grants this application, the appellant 45266
shall not be required to furnish the costs of the appeal. 45267

(3) The appellant shall mail the notice of appeal to the 45268
department of job and family services and file notice of appeal 45269
with the court within thirty days after the department mails the 45270
administrative appeal decision to the appellant. For good cause 45271
shown, the court may extend the time for mailing and filing notice 45272
of appeal, but such time shall not exceed six months from the date 45273

the department mails the administrative appeal decision. Filing 45274
notice of appeal with the court shall be the only act necessary to 45275
vest jurisdiction in the court. 45276

(4) The department shall be required to file a transcript of 45277
the testimony of the state hearing with the court only if the 45278
court orders the department to file the transcript. The court 45279
shall make such an order only if it finds that the department and 45280
the appellant are unable to stipulate to the facts of the case and 45281
that the transcript is essential to a determination of the appeal. 45282
The department shall file the transcript not later than thirty 45283
days after the day such an order is issued. 45284

(F) The department of job and family services shall adopt 45285
rules in accordance with Chapter 119. of the Revised Code to 45286
implement this section, including rules governing the following: 45287

(1) State hearings under division (B) of this section. The 45288
rules shall include provisions regarding notice of eligibility 45289
termination and the opportunity of an appellant appealing a 45290
decision or order of a county department of job and family 45291
services to request a county conference with the county department 45292
before the state hearing is held. 45293

(2) Administrative appeals under division (C) of this 45294
section; 45295

(3) Time limits for complying with a decision issued under 45296
division (B) or (C) of this section; 45297

(4) Sanctions that may be applied against an agency under 45298
division (D) of this section. 45299

(G) The department of job and family services may adopt rules 45300
in accordance with Chapter 119. of the Revised Code establishing 45301
an appeals process for an appellant who appeals a decision or 45302
order regarding a Title IV-A program identified under division 45303

(A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of section 5101.80 of the 45304
Revised Code that is different from the appeals process 45305
established by this section. The different appeals process may 45306
include having a state agency that administers the Title IV-A 45307
program pursuant to an interagency agreement entered into under 45308
section 5101.801 of the Revised Code administer the appeals 45309
process. 45310

(H) The requirements of Chapter 119. of the Revised Code 45311
apply to a state hearing or administrative appeal under this 45312
section only to the extent, if any, specifically provided by rules 45313
adopted under this section. 45314

Sec. 5101.36. Any application for public assistance gives a 45315
right of subrogation to the department of job and family services 45316
for any workers' compensation benefits payable to a person who is 45317
subject to a support order, as defined in section 3119.01 of the 45318
Revised Code, on behalf of the applicant, to the extent of any 45319
public assistance payments made on the applicant's behalf. If the 45320
director of job and family services, in consultation with a child 45321
support enforcement agency and the administrator of the bureau of 45322
workers' compensation, determines that a person responsible for 45323
support payments to a recipient of public assistance is receiving 45324
workers' compensation, the director shall notify the administrator 45325
of the amount of the benefit to be paid to the department of job 45326
and family services. 45327

For purposes of this section, "public assistance" means 45328
medical assistance provided through the medical assistance program 45329
established under section 5111.01 of the Revised Code; Ohio works 45330
first provided under Chapter 5107. of the Revised Code; 45331
prevention, retention, and contingency benefits and services 45332
provided under Chapter 5108. of the Revised Code; disability 45333
financial assistance provided under Chapter 5115. of the Revised 45334

Code; or disability medical assistance provided under former 45335
Chapter 5115. of the Revised Code. 45336

Sec. 5101.46. (A) As used in this section: 45337

(1) "Title XX" means Title XX of the "Social Security Act," 45338
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 45339

(2) "Respective local agency" means, with respect to the 45340
department of job and family services, a county department of job 45341
and family services; with respect to the department of mental 45342
health, a board of alcohol, drug addiction, and mental health 45343
services; and with respect to the department of mental retardation 45344
and developmental disabilities, a county board of mental 45345
retardation and developmental disabilities. 45346

(3) "Federal poverty guidelines" means the poverty guidelines 45347
as revised annually by the United States department of health and 45348
human services in accordance with section 673(2) of the "Omnibus 45349
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 45350
9902, as amended, for a family size equal to the size of the 45351
family of the person whose income is being determined. 45352

(B) The departments of job and family services, mental 45353
health, and mental retardation and developmental disabilities, 45354
with their respective local agencies, shall administer the 45355
provision of social services funded through grants made under 45356
Title XX. The social services furnished with Title XX funds shall 45357
be directed at the following goals: 45358

(1) Achieving or maintaining economic self-support to 45359
prevent, reduce, or eliminate dependency; 45360

(2) Achieving or maintaining self-sufficiency, including 45361
reduction or prevention of dependency; 45362

(3) Preventing or remedying neglect, abuse, or exploitation 45363
of children and adults unable to protect their own interests, or 45364

preserving, rehabilitating, or reuniting families; 45365

(4) Preventing or reducing inappropriate institutional care 45366
by providing for community-based care, home-based care, or other 45367
forms of less intensive care; 45368

(5) Securing referral or admission for institutional care 45369
when other forms of care are not appropriate, or providing 45370
services to individuals in institutions. 45371

(C)(1) All federal funds received under Title XX shall be 45372
appropriated as follows: 45373

(a) Seventy-two and one-half per cent to the department of 45374
job and family services; 45375

(b) Twelve and ninety-three one-hundredths per cent to the 45376
department of mental health; 45377

(c) Fourteen and fifty-seven one-hundredths per cent to the 45378
department of mental retardation and developmental disabilities. 45379

(2) Each state department shall, subject to the approval of 45380
the controlling board, develop formulas for the distribution of 45381
their Title XX appropriations to their respective local agencies. 45382
The formulas shall take into account the total population of the 45383
area that is served by the agency, the percentage of the 45384
population in the area that falls below the federal poverty 45385
guidelines, and the agency's history of and ability to utilize 45386
Title XX funds. 45387

(3) Each of the state departments shall expend no more than 45388
three per cent of its Title XX appropriation for state 45389
administrative costs. Each of the department's respective local 45390
agencies shall expend no more than fourteen per cent of its Title 45391
XX appropriation for local administrative costs. 45392

(4) The department of job and family services shall expend no 45393
more than two per cent of its Title XX appropriation for the 45394

training of the following: 45395

(a) Employees of county departments of job and family 45396
services; 45397

(b) Providers of services under contract with the state 45398
departments' respective local agencies; 45399

(c) Employees of a public children services agency directly 45400
engaged in providing Title XX services. 45401

(D) The department of job and family services shall prepare a 45402
biennial comprehensive Title XX social services plan on the 45403
intended use of Title XX funds. The department shall develop a 45404
method for obtaining public comment during the development of the 45405
plan and following its completion. 45406

For each state fiscal year, the department of job and family 45407
services shall prepare a report on the actual use of Title XX 45408
funds. The department shall make the annual report available for 45409
public inspection. 45410

The departments of mental health and mental retardation and 45411
developmental disabilities shall prepare and submit to the 45412
department of job and family services the portions of each 45413
biennial plan and annual report that apply to services for mental 45414
health and mental retardation and developmental disabilities. Each 45415
respective local agency of the three state departments shall 45416
submit information as necessary for the preparation of biennial 45417
plans and annual reports. 45418

(E) Each county department shall adopt a county profile for 45419
the administration and provision of Title XX social services in 45420
the county. In developing its county profile, the county 45421
department shall take into consideration the comments and 45422
recommendations received from the public by the county family 45423
services planning committee pursuant to section 329.06 of the 45424

Revised Code. As part of its preparation of the county profile, 45425
the county department may prepare a local needs report analyzing 45426
the need for Title XX social services. 45427

The county department shall submit the county profile to the 45428
board of county commissioners for its review. Once the county 45429
profile has been approved by the board, the county department 45430
shall file a copy of the county profile with the department of job 45431
and family services. The department shall approve the county 45432
profile if the department determines the profile provides for the 45433
Title XX social services to meet the goals specified in division 45434
(B) of this section. 45435

~~(F) Not less often than every two years, the departments of 45436
job and family services, mental health, and mental retardation and 45437
developmental disabilities each shall commission an entity 45438
independent of itself to conduct an audit of its Title XX 45439
expenditures in accordance with generally accepted auditing 45440
principles. Within thirty days following the completion of its 45441
audit, each department shall submit a copy of the audit to the 45442
general assembly and to the United States secretary of health and 45443
human services. 45444~~

~~(G) Any of the three state departments and their respective 45445
local agencies may require that an entity under contract to 45446
provide social services with Title XX funds submit to an audit on 45447
the basis of alleged misuse or improper accounting of funds. The 45448
If an audit is required, the social services provider shall 45449
reimburse the state department or local agency for the cost it 45450
incurred in conducting the audit or having the audit conducted. 45451~~

If an audit demonstrates that a social services provider is 45452
responsible for one or more adverse findings, the provider shall 45453
reimburse the appropriate state department or its respective local 45454
agency the amount of the adverse findings. The amount shall not be 45455

~~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
amount of any adverse findings shall not be reimbursed with Title
XX funds. The cost of conducting an audit shall be reimbursed
under a subsequent or amended Title XX contract with the provider.~~

~~(H) If federal funds received by the department of job and
family services for use under Chapters 5107. and 5108. of the
Revised Code are transferred by the controlling board for use in
providing social services under this section, the distribution and
use of the funds are not subject to the provisions of division (C)
of this section. The department may do one or both of the
following with the funds:~~

~~(1) Distribute the funds to the county departments of job and
family services;~~

~~(2) Use the funds for services that benefit individuals
eligible for services consistent with the principles of Title IV A
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.
301, as amended.~~

~~(I) Except for the authority to adopt rules under division
(J) of this section as necessary to carry out this division, this
section does not apply to any distribution by the department of
job and family services of funds for reimbursement of allowable
Title XX expenditures when the funds for the reimbursement are
received from a federal funding source other than Title XX.~~

~~(J)(G) The department of job and family services may adopt
rules necessary to implement and carry out the purposes of this
section. Rules adopted under this division shall be adopted in
accordance with Chapter 119. of the Revised Code, unless they are~~

~~internal management rules governing fiscal and administrative~~ 45487
~~matters. Internal governing financial and operational matters of~~ 45488
~~the department or matters between the department and county~~ 45489
~~departments of job and family services shall be adopted as~~ 45490
~~internal management rules may be adopted~~ in accordance with 45491
section 111.15 of the Revised Code. Rules governing eligibility 45492
for services, program participation, and other matters pertaining 45493
to applicants and participants shall be adopted in accordance with 45494
Chapter 119. of the Revised Code. 45495

Sec. 5101.461. (A) As used in this section: 45496

(1) "Title IV-A" means Title IV-A of the "Social Security 45497
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 45498

(2) "Title XX" has the same meaning as in section 5101.46 of 45499
the Revised Code. 45500

(B) To the extent authorized by federal law, the department 45501
of job and family services may use funds received through the 45502
Title IV-A temporary assistance for needy families block grant for 45503
purposes of providing Title XX social services. The amount used 45504
under this section shall not exceed the maximum amount permitted 45505
by federal law. The funds and provision of Title XX social 45506
services with the funds are not subject to section 5101.46 of the 45507
Revised Code. 45508

(C) The department and any county department of job and 45509
family services may require an entity under contract to provide 45510
Title XX social services with funds used under this section to 45511
submit to an audit on the basis of alleged misuse or improper 45512
accounting of funds. If an audit is required, the social services 45513
provider shall reimburse the state department or county department 45514
for the cost it incurred in conducting the audit or having the 45515
audit conducted. 45516

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with 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.

(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.

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:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I and II provided for under sections 5101.50 and 5101.51 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104.

of the Revised Code; 45547

(4) The food stamp program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code; 45548
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(5) Other programs the director determines are supportive of children, adults, or families ~~with at least one employed member;~~ 45551
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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. 45553
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(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services. 45558
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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: 45563
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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. 45568
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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. 45572
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~~(C)~~(D) The director may adopt rules as necessary to implement this section. 45577
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Sec. 5101.80. (A) As used in this section and in section 45579
5101.801 of the Revised Code: 45580

(1) "County family services agency" has the same meaning as 45581
in section 307.981 of the Revised Code. 45582

(2) "State agency" has the same meaning as in section 9.82 of 45583
the Revised Code. 45584

(3) "Title IV-A administrative agency" means both of the 45585
following: 45586

(a) A county family services agency or state agency 45587
administering a Title IV-A program under the supervision of the 45588
department of job and family services; 45589

(b) A government agency or private, not-for-profit entity 45590
administering a project funded in whole or in part with funds 45591
provided under the Title IV-A demonstration program created under 45592
section 5101.803 of the Revised Code. 45593

(4) "Title IV-A program" means all of the following that are 45594
funded in part with funds provided under the temporary assistance 45595
for needy families block grant established by Title IV-A of the 45596
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 45597
amended: 45598

(a) The Ohio works first program established under Chapter 45599
5107. of the Revised Code; 45600

(b) The prevention, retention, and contingency program 45601
established under Chapter 5108. of the Revised Code; 45602

(c) A program established by the general assembly or an 45603
executive order issued by the governor that is administered or 45604
supervised by the department of job and family services pursuant 45605

to section 5101.801 of the Revised Code; 45606

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code; 45607
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(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code; 45609
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(f) A component of a Title IV-A program identified under 45611
divisions (A)~~(3)~~(4)(a) to ~~(e)~~(e) of this section that the Title 45612
IV-A state plan prepared under division (C)(1) of this section 45613
identifies as a component. 45614

(B) The department of job and family services shall act as 45615
the single state agency to administer and supervise the 45616
administration of Title IV-A programs. The Title IV-A state plan 45617
and amendments to the plan prepared under division (C) of this 45618
section are binding on ~~county family services agencies and state~~ 45619
~~agencies that administer a Title IV-A program~~ administrative 45620
agencies. No ~~county family services agency or state agency~~ 45621
~~administering a Title IV-A program~~ administrative agency may 45622
establish, by rule or otherwise, a policy governing ~~the a~~ a Title 45623
IV-A program that is inconsistent with a Title IV-A program policy 45624
established, in rule or otherwise, by the director of job and 45625
family services. 45626

(C) The department of job and family services shall do all of 45627
the following: 45628

(1) Prepare and submit to the United States secretary of 45629
health and human services a Title IV-A state plan for Title IV-A 45630
programs; 45631

(2) Prepare and submit to the United States secretary of 45632
health and human services amendments to the Title IV-A state plan 45633
that the department determines necessary, including amendments 45634
necessary to implement Title IV-A programs identified in ~~division~~ 45635

divisions (A)~~(3)~~(4)(c) and ~~(d)~~ to (f) of this section; 45636

(3) Prescribe forms for applications, certificates, reports, 45637
records, and accounts of ~~county family services agencies and state~~ 45638
~~agencies administering a~~ Title IV-A program administrative 45639
agencies, and other matters related to Title IV-A programs; 45640

(4) Make such reports, in such form and containing such 45641
information as the department may find necessary to assure the 45642
correctness and verification of such reports, regarding Title IV-A 45643
programs; 45644

(5) Require reports and information from each ~~county family~~ 45645
~~services agency and state agency administering a~~ Title IV-A 45646
~~program administrative agency~~ as may be necessary or advisable 45647
regarding the a Title IV-A program; 45648

(6) Afford a fair hearing in accordance with section 5101.35 45649
of the Revised Code to any applicant for, or participant or former 45650
participant of, a Title IV-A program aggrieved by a decision 45651
regarding the program; 45652

(7) Administer and expend, pursuant to Chapters 5104., 5107., 45653
and 5108. of the Revised Code and ~~section~~ sections 5101.801, 45654
5101.802, and 5101.803 of the Revised Code, any sums appropriated 45655
by the general assembly for the purpose of those chapters and 45656
~~section~~ sections and all sums paid to the state by the secretary 45657
of the treasury of the United States as authorized by Title IV-A 45658
of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 45659
601, as amended; 45660

(8) Conduct investigations and audits as are necessary 45661
regarding Title IV-A programs; 45662

(9) Enter into reciprocal agreements with other states 45663
relative to the provision of Ohio works first and prevention, 45664
retention, and contingency to residents and nonresidents; 45665

(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:

(a) Examine issues of process, practice, impact, and outcomes;

(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;

(c) Provide the department with reports at times the department specifies.

(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:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(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.

~~(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.~~

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~~(13) To the extent authorized by section 5101.801 of the
Revised Code, enter into interagency agreements with state
agencies for the administration of Title IV A programs identified
under division (A)(3)(c) and (d) of this section.~~

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(D) The department shall provide copies of the reports it
receives under division (C)(10) of this section and prepares under
~~divisions~~ 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.

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(E) An authorized representative of the department or a
county family services agency or state agency administering a
Title IV-A program shall have access to all records and
information bearing thereon for the purposes of investigations
conducted pursuant to this section. 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.

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Sec. 5101.801. (A) Except as otherwise provided by the law
enacted by the general assembly or executive order issued by the
governor establishing the Title IV-A program, a Title IV-A program
identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of
section 5101.80 of the Revised Code shall provide benefits and

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services that are not "assistance" as defined in 45 C.F.R. 45727
260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) 45728
excludes from the definition of assistance. 45729

(B)(1) Except as otherwise provided by the law enacted by the 45730
general assembly or executive order issued by the governor 45731
establishing the Title IV-A program, the department of job and 45732
family services shall do either of the following regarding a Title 45733
IV-A program identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), 45734
or (f) of section 5101.80 of the Revised Code: 45735

~~(1)~~(a) Administer the program or supervise a county family 45736
services agency's administration of the program; 45737

~~(2)~~(b) Enter into an interagency agreement with a state 45738
agency for the state agency to administer the program under the 45739
department's supervision. 45740

(2) The department may enter into an agreement with a 45741
government entity and, to the extent permitted by federal law, a 45742
private, not-for-profit entity for the entity to receive funding 45743
for a project under the Title IV-A demonstration program. 45744

(C) ~~If the department administers or supervises the 45745
administration of a Title IV A program identified under division 45746
(A)(3)(c) or (d) of section 5101.80 of the Revised Code pursuant 45747
to division (B)(1) of this section, the The department may adopt 45748
rules governing ~~the program~~ Title IV-A programs identified under 45749
divisions (A)(4)(c), (d), (e), and (f) of section 5101.80 of the 45750
Revised Code. Rules governing financial and operational matters of 45751
the department or between the department and ~~the~~ county family 45752
services ~~agency~~ agencies shall be adopted as internal management 45753
rules adopted in accordance with section 111.15 of the Revised 45754
Code. All other rules shall be adopted in accordance with Chapter 45755
119. of the Revised Code. 45756~~

(D) If the department enters into an ~~interagency~~ agreement 45757

regarding a Title IV-A program identified under division 45758
(A)~~(3)~~(4)(c) ~~or (d)~~, (e), or (f) of section 5101.80 of the Revised 45759
Code pursuant to division (B)(1)(b) or (2) of this section, the 45760
agreement shall include at least all of the following: 45761

(1) A requirement that the state agency or entity comply with 45762
the requirements for the program or project, including all of the 45763
following requirements established by federal statutes and 45764
regulations, state statutes and rules, the United States office of 45765
management and budget, and the Title IV-A state plan prepared 45766
under section 5101.80 of the Revised Code: 45767

(a) Eligibility; 45768

(b) Reports; 45769

(c) Benefits and services; 45770

(d) Use of funds; 45771

(e) Appeals for applicants for, and recipients and former 45772
recipients of, the benefits and services; 45773

(f) Audits. 45774

(2) A complete description of all of the following: 45775

(a) The benefits and services that the program or project is 45776
to provide; 45777

(b) The methods of program or project administration; 45778

(c) The appeals process under section 5101.35 of the Revised 45779
Code for applicants for, and recipients and former recipients of, 45780
the ~~program's~~ program or project's benefits and services; 45781

(d) Other ~~program and administrative~~ requirements that the 45782
department requires be included. 45783

(3) Procedures for the department to approve a policy, 45784
established by rule or otherwise, that the state agency or entity 45785
establishes for the program or project before the policy is 45786

established; 45787

(4) Provisions regarding how the department is to reimburse 45788
the state agency or entity for allowable expenditures under the 45789
program or project that the department approves, including all of 45790
the following: 45791

(a) Limitations on administrative costs; 45792

(b) The department, at its discretion, ~~withholding doing~~ 45793
either of the following: 45794

(i) ~~Withholding~~ no more than five per cent of the funds that 45795
the department would otherwise provide to the state agency or 45796
entity for the program ~~or charging project;~~ 45797

(ii) ~~Charging~~ the state agency or entity for the costs to the 45798
department of performing, or contracting for the performance of, 45799
audits and other administrative functions associated with the 45800
program or project. 45801

(5) If the state agency or entity arranges by contract, 45802
grant, or other agreement for another entity to perform a function 45803
the state agency or entity would otherwise perform regarding the 45804
program or project, the state ~~agency's~~ agency or entity's 45805
responsibilities for both of the following: 45806

(a) Ensuring that the other entity complies with the 45807
~~interagency~~ agreement between the state agency or entity and 45808
department and federal statutes and regulations and state statutes 45809
and rules governing the use of funds for the program or project; 45810

(b) Auditing the other entity in accordance with requirements 45811
established by the United States office of management and budget. 45812

(6) The state ~~agency's~~ agency or entity's responsibilities 45813
regarding the prompt payment, including any interest assessed, of 45814
any adverse audit finding, final disallowance of federal funds, or 45815
other sanction or penalty imposed by the federal government, 45816

auditor of state, department, a court, or other entity regarding 45817
funds for the program or project; 45818

(7) Provisions for the department to terminate the 45819
~~interagency~~ agreement or withhold reimbursement from the state 45820
agency or entity if either of the following occur: 45821

(a) The federal government disapproves the program or project 45822
or reduces federal funds for the program or project; 45823

(b) The state agency or entity fails to comply with the terms 45824
of the ~~interagency~~ agreement. 45825

(8) Provisions for both of the following: 45826

(a) The department and state agency or entity determining the 45827
performance outcomes expected for the program or project; 45828

(b) An evaluation of the program or project to determine its 45829
success in achieving the performance outcomes determined under 45830
division (D)(8)(a) of this section. 45831

(E) To the extent consistent with the law enacted by the 45832
general assembly or executive order issued by the governor 45833
establishing the Title IV-A program and subject to the approval of 45834
the director of budget and management, the director of job and 45835
family services may terminate a Title IV-A program identified 45836
under division (A)~~(3)~~(4)(c) or, (d), (e), or (f) of section 45837
5101.80 of the Revised Code or reduce funding for the program if 45838
the director of job and family services determines that federal or 45839
state funds are insufficient to fund the program. If the director 45840
of budget and management approves the termination or reduction in 45841
funding for such a program, the director of job and family 45842
services shall issue instructions for the termination or funding 45843
reduction. If a ~~county family services agency or state~~ Title IV-A 45844
administrative agency is administering the program, the ~~county~~ 45845
~~family services agency or state~~ agency is bound by the termination 45846
or funding reduction and shall comply with the director's 45847

instructions. 45848

(F) The director of job and family services may adopt 45849
internal management rules in accordance with section 111.15 of the 45850
Revised Code as necessary to implement this section. The rules are 45851
binding on each ~~county family services agency and state agency~~ 45852
~~administering, pursuant to this section, a Title IV-A program~~ 45853
~~identified in division (A)(3)(c) or (d) of section 5101.80 of the~~ 45854
~~Revised Code~~ administrative agency. 45855

Sec. 5101.802. (A) As used in this section: 45856

(1) "Custodian," "guardian," and "minor child" have the same 45857
meanings as in section 5107.02 of the Revised Code. 45858

(2) "Federal poverty guidelines" has the same meaning as in 45859
section 5101.46 of the Revised Code. 45860

(3) "Kinship caregiver" has the same meaning as in section 45861
5101.85 of the Revised Code. 45862

(B) Subject to division (E) of section 5101.801 of the 45863
Revised Code, there is hereby created the kinship permanency 45864
incentive program to promote permanency for a minor child in the 45865
legal and physical custody of a kinship caregiver. The program 45866
shall provide an initial one-time incentive payment to the kinship 45867
caregiver to defray the costs of initial placement of the minor 45868
child in the kinship caregiver's home. The program may provide 45869
additional permanency incentive payments for the minor child at 45870
six month intervals for a total period not to exceed thirty-six 45871
months. 45872

(C) A kinship caregiver may participate in the program if all 45873
of the following requirements are met: 45874

(1) The kinship caregiver applies to a public children 45875
services agency in accordance with the application process 45876
established in rules authorized by division (E) of this section; 45877

(2) The minor child the kinship caregiver is caring for is a child with special needs as that term is defined in rules adopted under section 5153.163 of the Revised Code and related to the kinship caregiver in a manner that makes the kinship caregiver a kinship caregiver; 45878
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(3) A juvenile court has adjudicated the minor child to be an abused, neglected, dependent, or unruly child and determined that it is in the child's best interest to be in the legal custody or guardianship of the kinship caregiver; 45883
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(4) The kinship caregiver is either the minor child's custodian or guardian; 45887
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(5) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section; 45889
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(6) The gross income of the kinship caregiver's family, including the minor child, does not exceed two hundred per cent of the federal poverty guidelines. 45892
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(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of job and family services shall supervise public children services agencies' duties under this section. 45895
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(E) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall establish all of the following: 45901
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(1) The application process for the program; 45905

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver 45906
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to be eligible for the program; 45908

(3) The initial and ongoing eligibility determination process 45909
for the program; 45910

(4) The amount of the incentive payments provided under the 45911
program; 45912

(5) The method by which the incentive payments are provided 45913
to a kinship caregiver, which shall not require a public children 45914
services agency to seek reimbursement from the department of job 45915
and family services; 45916

(6) Anything else the director considers necessary to 45917
implement the program. 45918

(F) The director shall begin implementation of the kinship 45919
permanency incentive program no later than January 1, 2006. 45920

Sec. 5101.803. (A) Subject to division (E) of section 45921
5101.801 of the Revised Code, there is hereby created the Title 45922
IV-A demonstration program to provide funding for innovative and 45923
promising prevention and intervention projects that meet one or 45924
more of the four purposes of the temporary assistance for needy 45925
families block grant as specified in 42 U.S.C. 601 and are for 45926
individuals with specific and multiple barriers to achieving or 45927
maintaining self-sufficiency and personal responsibility. The 45928
department of job and family services may provide funding for such 45929
projects to government entities and, to the extent permitted by 45930
federal law, private, not-for-profit entities with which the 45931
department enters into agreements under division (B)(2) of section 45932
5101.801 of the Revised Code. 45933

In accordance with criteria the department develops, the 45934
department may solicit proposals for entities seeking to enter 45935
into an agreement with the department under division (B)(2) of 45936
section 5101.801 of the Revised Code. The department may enter 45937

into such agreements with entities that do both of the following: 45938

(1) Meet the proposals' criteria; 45939

(2) If the entity's proposed project does not potentially 45940
affect persons in each county of the state, provides the 45941
department evidence that the entity has notified, in writing, the 45942
county department of job and family services of each county where 45943
persons may be affected by the implementation of the project. 45944

(B) In developing the criteria, soliciting the proposals, and 45945
entering in the agreements, the department shall comply with all 45946
applicable federal and state laws, the Title IV-A state plan 45947
submitted to the United States secretary of health and human 45948
services under section 5101.80 of the Revised Code, amendments to 45949
the Title IV-A state plan submitted to the United States secretary 45950
under that section, and federal waivers the United States 45951
secretary grants. 45952

(C) The department shall begin implementation of the Title 45953
IV-A demonstration program no later than January 1, 2006. 45954

Sec. 5101.821. Except as otherwise approved by the director 45955
of budget and management, the department of job and family 45956
services shall deposit federal funds received under Title IV-A of 45957
the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), 45958
into the temporary assistance for needy families (TANF) federal 45959
fund, which is hereby created in the state treasury. The 45960
department shall use money in the fund for the Ohio works first 45961
program established under Chapter 5107. of the Revised Code; the 45962
prevention, retention, and contingency program established under 45963
Chapter 5108. of the Revised Code; social services provided 45964
pursuant to section 5101.461 of the Revised Code; and any other 45965
purposes consistent with Title IV-A, federal regulations, federal 45966
waivers granted by the United States secretary of health and human 45967

services, state law, the Title IV-A state plan and amendments 45968
submitted to the United States secretary of health and human 45969
services under section 5101.80 of the Revised Code, and rules 45970
adopted by the department under section 5107.05 of the Revised 45971
Code. 45972

Sec. 5101.93. The department of job and family services shall 45973
apply to the United States secretary of health and human services 45974
for a waiver of federal medicaid requirements if necessary to 45975
fulfill the requirements of section 1751.89 of the Revised Code. 45976

Sec. 5104.01. As used in this chapter: 45977

(A) "Administrator" means the person responsible for the 45978
daily operation of a center or type A home. The administrator and 45979
the owner may be the same person. 45980

(B) "Approved child day camp" means a child day camp approved 45981
pursuant to section 5104.22 of the Revised Code. 45982

(C) "Authorized provider" means a person authorized by a 45983
county director of job and family services to operate a certified 45984
type B family day-care home. 45985

(D) "Border state child care provider" means a child care 45986
provider that is located in a state bordering Ohio and that is 45987
licensed, certified, or otherwise approved by that state to 45988
provide child care. 45989

(E) "Caretaker parent" means the father or mother of a child 45990
whose presence in the home is needed as the caretaker of the 45991
child, a person who has legal custody of a child and whose 45992
presence in the home is needed as the caretaker of the child, a 45993
guardian of a child whose presence in the home is needed as the 45994
caretaker of the child, and any other person who stands in loco 45995
parentis with respect to the child and whose presence in the home 45996

is needed as the caretaker of the child. 45997

(F) "Certified type B family day-care home" and "certified 45998
type B home" mean a type B family day-care home that is certified 45999
by the director of the county department of job and family 46000
services pursuant to section 5104.11 of the Revised Code to 46001
receive public funds for providing child care pursuant to this 46002
chapter and any rules adopted under it. 46003

(G) "Chartered nonpublic school" means a school that meets 46004
standards for nonpublic schools prescribed by the state board of 46005
education for nonpublic schools pursuant to section 3301.07 of the 46006
Revised Code. 46007

(H) "Child" includes an infant, toddler, preschool child, or 46008
school child. 46009

(I) "Child care block grant act" means the "Child Care and 46010
Development Block Grant Act of 1990," established in section 5082 46011
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 46012
1388-236 (1990), 42 U.S.C. 9858, as amended. 46013

(J) "Child day camp" means a program in which only school 46014
children attend or participate, that operates for no more than 46015
seven hours per day, that operates only during one or more public 46016
school district's regular vacation periods or for no more than 46017
fifteen weeks during the summer, and that operates outdoor 46018
activities for each child who attends or participates in the 46019
program for a minimum of fifty per cent of each day that children 46020
attend or participate in the program, except for any day when 46021
hazardous weather conditions prevent the program from operating 46022
outdoor activities for a minimum of fifty per cent of that day. 46023
For purposes of this division, the maximum seven hours of 46024
operation time does not include transportation time from a child's 46025
home to a child day camp and from a child day camp to a child's 46026
home. 46027

(K) "Child care" means administering to the needs of infants, 46028
toddlers, preschool children, and school children outside of 46029
school hours by persons other than their parents or guardians, 46030
custodians, or relatives by blood, marriage, or adoption for any 46031
part of the twenty-four-hour day in a place or residence other 46032
than a child's own home. 46033

(L) "Child day-care center" and "center" mean any place in 46034
which child care or publicly funded child care is provided for 46035
thirteen or more children at one time or any place that is not the 46036
permanent residence of the licensee or administrator in which 46037
child care or publicly funded child care is provided for seven to 46038
twelve children at one time. In counting children for the purposes 46039
of this division, any children under six years of age who are 46040
related to a licensee, administrator, or employee and who are on 46041
the premises of the center shall be counted. "Child day-care 46042
center" and "center" do not include any of the following: 46043

(1) A place located in and operated by a hospital, as defined 46044
in section 3727.01 of the Revised Code, in which the needs of 46045
children are administered to, if all the children whose needs are 46046
being administered to are monitored under the on-site supervision 46047
of a physician licensed under Chapter 4731. of the Revised Code or 46048
a registered nurse licensed under Chapter 4723. of the Revised 46049
Code, and the services are provided only for children who, in the 46050
opinion of the child's parent, guardian, or custodian, are 46051
exhibiting symptoms of a communicable disease or other illness or 46052
are injured; 46053

(2) A child day camp; 46054

(3) A place that provides child care, but not publicly funded 46055
child care, if all of the following apply: 46056

(a) An organized religious body provides the child care; 46057

(b) A parent, custodian, or guardian of at least one child 46058

receiving child care is on the premises and readily accessible at
all times; 46059
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(c) The child care is not provided for more than thirty days
a year; 46061
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(d) The child care is provided only for preschool and school
children. 46063
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(M) "Child care resource and referral service organization"
means a community-based nonprofit organization that provides child
care resource and referral services but not child care. 46065
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(N) "Child care resource and referral services" means all of
the following services: 46068
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(1) Maintenance of a uniform data base of all child care
providers in the community that are in compliance with this
chapter, including current occupancy and vacancy data; 46070
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(2) Provision of individualized consumer education to
families seeking child care; 46073
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(3) Provision of timely referrals of available child care
providers to families seeking child care; 46075
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(4) Recruitment of child care providers; 46077

(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; 46078
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(6) Collection and analysis of data on the supply of and
demand for child care in the community; 46082
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(7) Technical assistance concerning locally, state, and
federally funded child care and early childhood education
programs; 46084
46085
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(8) Stimulation of employer involvement in making child care 46087

more affordable, more available, safer, and of higher quality for
their employees and for the community; 46088
46089

(9) Provision of written educational materials to caretaker
parents and informational resources to child care providers; 46090
46091

(10) Coordination of services among child care resource and
referral service organizations to assist in developing and 46092
maintaining a statewide system of child care resource and referral 46093
services if required by the department of job and family services; 46094
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(11) Cooperation with the county department of job and family
services in encouraging the establishment of parent cooperative 46096
child care centers and parent cooperative type A family day-care 46097
homes. 46098
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(O) "Child-care staff member" means an employee of a child
day-care center or type A family day-care home who is primarily 46100
responsible for the care and supervision of children. The 46101
administrator may be a part-time child-care staff member when not 46102
involved in other duties. 46103
46104

(P) "Drop-in child day-care center," "drop-in center,"
"drop-in type A family day-care home," and "drop-in type A home"
mean a center or type A home that provides child care or publicly
funded child care for children on a temporary, irregular basis. 46105
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(Q) "Employee" means a person who either: 46109

(1) Receives compensation for duties performed in a child
day-care center or type A family day-care home; 46110
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(2) Is assigned specific working hours or duties in a child
day-care center or type A family day-care home. 46112
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(R) "Employer" means a person, firm, institution,
organization, or agency that operates a child day-care center or
type A family day-care home subject to licensure under this
chapter. 46114
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(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, ~~or under sections 3301.31 to 3301.37 of the Revised Code~~ and is licensed as a child day-care center.

(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

(W) "Infant" means a child who is less than eighteen months of age.

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health,

growth, and safety of the children that is used to develop an 46149
indicator checklist. 46150

(Z) "License capacity" means the maximum number in each age 46151
category of children who may be cared for in a child day-care 46152
center or type A family day-care home at one time as determined by 46153
the director of job and family services considering building 46154
occupancy limits established by the department of commerce, number 46155
of available child-care staff members, amount of available indoor 46156
floor space and outdoor play space, and amount of available play 46157
equipment, materials, and supplies. 46158

(AA) "Licensed preschool program" or "licensed school child 46159
program" means a preschool program or school child program, as 46160
defined in section 3301.52 of the Revised Code, that is licensed 46161
by the department of education pursuant to sections 3301.52 to 46162
3301.59 of the Revised Code. 46163

(BB) "Licensee" means the owner of a child day-care center or 46164
type A family day-care home that is licensed pursuant to this 46165
chapter and who is responsible for ensuring its compliance with 46166
this chapter and rules adopted pursuant to this chapter. 46167

(CC) "Operate a child day camp" means to operate, establish, 46168
manage, conduct, or maintain a child day camp. 46169

(DD) "Owner" includes a person, as defined in section 1.59 of 46170
the Revised Code, or government entity. 46171

(EE) "Parent cooperative child day-care center," "parent 46172
cooperative center," "parent cooperative type A family day-care 46173
home," and "parent cooperative type A home" mean a corporation or 46174
association organized for providing educational services to the 46175
children of members of the corporation or association, without 46176
gain to the corporation or association as an entity, in which the 46177
services of the corporation or association are provided only to 46178
children of the members of the corporation or association, 46179

ownership and control of the corporation or association rests 46180
solely with the members of the corporation or association, and at 46181
least one parent-member of the corporation or association is on 46182
the premises of the center or type A home during its hours of 46183
operation. 46184

(FF) "Part-time child day-care center," "part-time center," 46185
"part-time type A family day-care home," and "part-time type A 46186
home" mean a center or type A home that provides child care or 46187
publicly funded child care for no more than four hours a day for 46188
any child. 46189

(GG) "Place of worship" means a building where activities of 46190
an organized religious group are conducted and includes the 46191
grounds and any other buildings on the grounds used for such 46192
activities. 46193

(HH) "Preschool child" means a child who is three years old 46194
or older but is not a school child. 46195

(II) "Protective child care" means publicly funded child care 46196
for the direct care and protection of a child to whom either of 46197
the following applies: 46198

(1) A case plan prepared and maintained for the child 46199
pursuant to section 2151.412 of the Revised Code indicates a need 46200
for protective care and the child resides with a parent, 46201
stepparent, guardian, or another person who stands in loco 46202
parentis as defined in rules adopted under section 5104.38 of the 46203
Revised Code; 46204

(2) The child and the child's caretaker either temporarily 46205
reside in a facility providing emergency shelter for homeless 46206
families or are determined by the county department of job and 46207
family services to be homeless, and are otherwise ineligible for 46208
publicly funded child care. 46209

(JJ) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

(NN) "State median income" means the state median income calculated by the department of development pursuant to division

(A)(1)(g) of section 5709.61 of the Revised Code. 46241

(OO) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 46242
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(PP) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 46244
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(QQ) "Toddler" means a child who is at least eighteen months of age but less than three years of age. 46246
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(RR) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type 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. 46248
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(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 46263
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whose needs are being administered to are siblings of the same 46272
immediate family and the residence is the home of the siblings. 46273
"Type B family day-care home" and "type B home" do not include any 46274
child day camp. 46275

Sec. 5104.02. (A) The director of job and family services is 46276
responsible for the licensing of child day-care centers and type A 46277
family day-care homes, ~~and. Each entity operating a head start~~ 46278
program shall meet the criteria for, and be licensed as, a child 46279
day-care center. The director is responsible for the enforcement 46280
of this chapter and of rules promulgated pursuant to this chapter. 46281
~~No~~ 46282

No person, firm, organization, institution, or agency shall 46283
operate, establish, manage, conduct, or maintain a child day-care 46284
center or type A family day-care home without a license issued 46285
under section 5104.03 of the Revised Code. The current license 46286
shall be posted in a conspicuous place in the center or type A 46287
home that is accessible to parents, custodians, or guardians and 46288
employees of the center or type A home at all times when the 46289
center or type A home is in operation. 46290

(B) A person, firm, institution, organization, or agency 46291
operating any of the following programs is exempt from the 46292
requirements of this chapter: 46293

(1) A program of child care that operates for two or less 46294
consecutive weeks; 46295

(2) Child care in places of worship during religious 46296
activities during which children are cared for while at least one 46297
parent, guardian, or custodian of each child is participating in 46298
such activities and is readily available; 46299

(3) Religious activities which do not provide child care; 46300

(4) Supervised training, instruction, or activities of 46301

children in specific areas, including, but not limited to: art; 46302
drama; dance; music; gymnastics, swimming, or another athletic 46303
skill or sport; computers; or an educational subject conducted on 46304
an organized or periodic basis no more than one day a week and for 46305
no more than six hours duration; 46306

(5) Programs in which the director determines that at least 46307
one parent, custodian, or guardian of each child is on the 46308
premises of the facility offering child care and is readily 46309
accessible at all times, except that child care provided on the 46310
premises at which a parent, custodian, or guardian is employed 46311
more than two and one-half hours a day shall be licensed in 46312
accordance with division (A) of this section; 46313

(6)(a) Programs that provide child care funded and regulated 46314
or operated and regulated by state departments other than the 46315
department of job and family services or the state board of 46316
education when the director of job and family services has 46317
determined that the rules governing the program are equivalent to 46318
or exceed the rules promulgated pursuant to this chapter. 46319

Notwithstanding any exemption from regulation under this 46320
chapter, each state department shall submit to the director of job 46321
and family services a copy of the rules that govern programs that 46322
provide child care and are regulated or operated and regulated by 46323
the department. Annually, each state department shall submit to 46324
the director a report for each such program it regulates or 46325
operates and regulates that includes the following information: 46326

(i) The site location of the program; 46327

(ii) The maximum number of infants, toddlers, preschool 46328
children, or school children served by the program at one time; 46329

(iii) The number of adults providing child care for the 46330
number of infants, toddlers, preschool children, or school 46331
children; 46332

(iv) Any changes in the rules made subsequent to the time 46333
when the rules were initially submitted to the director. 46334

The director shall maintain a record of the child care 46335
information submitted by other state departments and shall provide 46336
this information upon request to the general assembly or the 46337
public. 46338

(b) Child care programs conducted by boards of education or 46339
by chartered nonpublic schools that are conducted in school 46340
buildings and that provide child care to school children only 46341
shall be exempt from meeting or exceeding rules promulgated 46342
pursuant to this chapter. 46343

(7) Any preschool program or school child program, except a 46344
head start program, that is subject to licensure by the department 46345
of education under sections 3301.52 to 3301.59 of the Revised 46346
Code. 46347

(8) Any program providing child care that meets all of the 46348
following requirements and, on October 20, 1987, was being 46349
operated by a nonpublic school that holds a charter issued by the 46350
state board of education for kindergarten only: 46351

(a) The nonpublic school has given the notice to the state 46352
board and the director of job and family services required by 46353
Section 4 of Substitute House Bill No. 253 of the 117th general 46354
assembly; 46355

(b) The nonpublic school continues to be chartered by the 46356
state board for kindergarten, or receives and continues to hold a 46357
charter from the state board for kindergarten through grade five; 46358

(c) The program is conducted in a school building; 46359

(d) The program is operated in accordance with rules 46360
promulgated by the state board under sections 3301.52 to 3301.57 46361
of the Revised Code. 46362

(9) A youth development program operated outside of school 46363
hours by a community-based center to which all of the following 46364
apply: 46365

(a) The children enrolled in the program are under nineteen 46366
years of age and enrolled in or eligible to be enrolled in a grade 46367
of kindergarten or above. 46368

(b) The program provides informal child care and at least two 46369
of the following supervised activities: educational, recreational, 46370
culturally enriching, social, and personal development activities. 46371

(c) The state board of education has approved the program's 46372
participation in the child and adult care food program as an 46373
outside-school-hours care center pursuant to standards established 46374
under section 3313.813 of the Revised Code. 46375

(d) The community-based center operating the program is 46376
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 46377
and (c)(3). 46378

Sec. 5104.32. (A) Except as provided in division (C) of this 46379
section, all purchases of publicly funded child care shall be made 46380
under a contract entered into by a licensed child day-care center, 46381
licensed type A family day-care home, certified type B family 46382
day-care home, certified in-home aide, approved child day camp, 46383
licensed preschool program, licensed school child program, or 46384
border state child care provider and the county department of job 46385
and family services. A county department of job and family 46386
services may enter into a contract with a provider for publicly 46387
funded child care for a specified period of time or upon a 46388
continuous basis for an unspecified period of time. All contracts 46389
for publicly funded child care shall be contingent upon the 46390
availability of state and federal funds. The department of job and 46391
family services shall prescribe a standard form to be used for all 46392

contracts for the purchase of publicly funded child care, 46393
regardless of the source of public funds used to purchase the 46394
child care. To the extent permitted by federal law and 46395
notwithstanding any other provision of the Revised Code that 46396
regulates state or county contracts or contracts involving the 46397
expenditure of state, county, or federal funds, all contracts for 46398
publicly funded child care shall be entered into in accordance 46399
with the provisions of this chapter and are exempt from any other 46400
provision of the Revised Code that regulates state or county 46401
contracts or contracts involving the expenditure of state, county, 46402
or federal funds. 46403

(B) Each contract for publicly funded childcare shall 46404
specify at least the following: 46405

(1) That the provider of publicly funded child care agrees to 46406
be paid for rendering services at the lowest of the rate 46407
customarily charged by the provider for children enrolled for 46408
child care, the reimbursement ceiling or rate of payment 46409
established pursuant to section 5104.30 of the Revised Code, or a 46410
rate the county department negotiates with the provider; 46411

(2) That, if a provider provides child care to an individual 46412
potentially eligible for publicly funded child care who is 46413
subsequently determined to be eligible, the county department 46414
agrees to pay for all child care provided between the date the 46415
county department receives the individual's completed application 46416
and the date the individual's eligibility is determined; 46417

(3) Whether the county department of job and family services, 46418
the provider, or a child care resource and referral service 46419
organization will make eligibility determinations, whether the 46420
provider or a child care resource and referral service 46421
organization will be required to collect information to be used by 46422
the county department to make eligibility determinations, and the 46423
time period within which the provider or child care resource and 46424

referral service organization is required to complete required 46425
eligibility determinations or to transmit to the county department 46426
any information collected for the purpose of making eligibility 46427
determinations; 46428

(4) That the provider, other than a border state child care 46429
provider ~~or except as provided in division (B) of section 3301.37~~ 46430
~~of the Revised Code~~, shall continue to be licensed, approved, or 46431
certified pursuant to this chapter and shall comply with all 46432
standards and other requirements in this chapter and in rules 46433
adopted pursuant to this chapter for maintaining the provider's 46434
license, approval, or certification; 46435

(5) That, in the case of a border state child care provider, 46436
the provider shall continue to be licensed, certified, or 46437
otherwise approved by the state in which the provider is located 46438
and shall comply with all standards and other requirements 46439
established by that state for maintaining the provider's license, 46440
certificate, or other approval; 46441

(6) Whether the provider will be paid by the county 46442
department of job and family services or the state department of 46443
job and family services; 46444

(7) That the contract is subject to the availability of state 46445
and federal funds. 46446

(C) Unless specifically prohibited by federal law, the county 46447
department of job and family services shall give individuals 46448
eligible for publicly funded child care the option of obtaining 46449
certificates for payment that the individual may use to purchase 46450
services from any provider qualified to provide publicly funded 46451
child care under section 5104.31 of the Revised Code. Providers of 46452
publicly funded child care may present these certificates for 46453
payment for reimbursement in accordance with rules that the 46454
director of job and family services shall adopt. Only providers 46455

may receive reimbursement for certificates for payment. The value 46456
of the certificate for payment shall be based on the lowest of the 46457
rate customarily charged by the provider, the reimbursement 46458
ceiling or rate of payment established pursuant to section 5104.30 46459
of the Revised Code, or a rate the county department negotiates 46460
with the provider. The county department may provide the 46461
certificates for payment to the individuals or may contract with 46462
child care providers or child care resource and referral service 46463
organizations that make determinations of eligibility for publicly 46464
funded child care pursuant to contracts entered into under section 46465
5104.34 of the Revised Code for the providers or resource and 46466
referral service organizations to provide the certificates for 46467
payment to individuals whom they determine are eligible for 46468
publicly funded child care. 46469

For each six-month period a provider of publicly funded child 46470
care provides publicly funded child day-care to the child of an 46471
individual given certificates for payment, the individual shall 46472
provide the provider certificates for days the provider would have 46473
provided publicly funded child care to the child had the child 46474
been present. County departments shall specify the maximum number 46475
of days providers will be provided certificates of payment for 46476
days the provider would have provided publicly funded child care 46477
had the child been present. The maximum number of days shall not 46478
exceed ten days in a six-month period during which publicly funded 46479
child care is provided to the child regardless of the number of 46480
providers that provide publicly funded child care to the child 46481
during that period. 46482

Sec. 5104.38. In addition to any other rules adopted under 46483
this chapter, the director of job and family services shall adopt 46484
rules in accordance with Chapter 119. of the Revised Code 46485
governing financial and administrative requirements for publicly 46486

funded child care and establishing all of the following: 46487

(A) Procedures and criteria to be used in making 46488
determinations of eligibility for publicly funded child care that 46489
give priority to children of families with lower incomes and 46490
procedures and criteria for eligibility for publicly funded 46491
protective child care. The rules shall specify the maximum amount 46492
of income a family may have for initial and continued eligibility. 46493
The maximum amount shall not exceed two hundred per cent of the 46494
federal poverty line. 46495

(B) Procedures under which a county department of job and 46496
family services may, if the department, under division (A) of this 46497
section, specifies a maximum amount of income a family may have 46498
for eligibility for publicly funded child care that is less than 46499
the maximum amount specified in that division, specify a maximum 46500
amount of income a family residing in the county the county 46501
department serves may have for initial and continued eligibility 46502
for publicly funded child care that is higher than the amount 46503
specified by the department but does not exceed the maximum amount 46504
specified in division (A) of this section; 46505

(C) A schedule of fees requiring all eligible caretaker 46506
parents to pay a fee for publicly funded child care according to 46507
income and family size, which shall be uniform for all types of 46508
publicly funded child care, except as authorized by rule, and, to 46509
the extent permitted by federal law, shall permit the use of state 46510
and federal funds to pay the customary deposits and other advance 46511
payments that a provider charges all children who receive child 46512
care from that provider. The schedule of fees ~~may not provide for~~ 46513
~~a caretaker parent to pay a fee that exceeds ten per cent of the~~ 46514
~~parent's family income~~ shall be calculated as permitted by federal 46515
law. 46516

(D) A formula based upon a percentage of the county's total 46517
expenditures for publicly funded child care for determining the 46518

maximum amount of state and federal funds appropriated for 46519
publicly funded child care that a county department may use for 46520
administrative purposes; 46521

(E) Procedures to be followed by the department and county 46522
departments in recruiting individuals and groups to become 46523
providers of child care; 46524

(F) Procedures to be followed in establishing state or local 46525
programs designed to assist individuals who are eligible for 46526
publicly funded child care in identifying the resources available 46527
to them and to refer the individuals to appropriate sources to 46528
obtain child care; 46529

(G) Procedures to deal with fraud and abuse committed by 46530
either recipients or providers of publicly funded child care; 46531

(H) Procedures for establishing a child care grant or loan 46532
program in accordance with the child care block grant act; 46533

(I) Standards and procedures for applicants to apply for 46534
grants and loans, and for the department to make grants and loans; 46535

(J) A definition of "person who stands in loco parentis" for 46536
the purposes of division (II)(1) of section 5104.01 of the Revised 46537
Code; 46538

(K) Procedures for a county department of job and family 46539
services to follow in making eligibility determinations and 46540
redeterminations for publicly funded child care available through 46541
telephone, computer, and other means at locations other than the 46542
county department; 46543

(L) Any other rules necessary to carry out sections 5104.30 46544
to 5104.39 of the Revised Code. 46545

Sec. 5107.05. The director of job and family services shall 46546
adopt rules to implement this chapter. The rules shall be 46547

consistent with Title IV-A, Title IV-D, federal regulations, state 46548
law, the Title IV-A state plan submitted to the United States 46549
secretary of health and human services under section 5101.80 of 46550
the Revised Code, amendments to the plan, and waivers granted by 46551
the United States secretary. Rules governing eligibility, program 46552
participation, and other applicant and participant requirements 46553
shall be adopted in accordance with Chapter 119. of the Revised 46554
Code. Rules governing financial and other administrative 46555
requirements applicable to the department of job and family 46556
services and county departments of job and family services shall 46557
be adopted in accordance with section 111.15 of the Revised Code. 46558

(A) The rules shall specify, establish, or govern all of the 46559
following: 46560

(1) A payment standard for Ohio works first based on federal 46561
and state appropriations; 46562

(2) The method of determining the amount of cash assistance 46563
an assistance group receives under Ohio works first; 46564

(3) Requirements for initial and continued eligibility for 46565
Ohio works first, including requirements regarding income, 46566
citizenship, age, residence, and assistance group composition. The 46567
rules regarding income shall specify what is countable income, 46568
gross earned income, and gross unearned income for the purpose of 46569
section 5107.10 of the Revised Code. 46570

(4) For the purpose of section 5107.12 of the Revised Code, 46571
application and verification procedures, including the minimum 46572
information an application must contain; 46573

(5) The extent to which a participant of Ohio works first 46574
must notify, pursuant to section 5107.12 of the Revised Code, a 46575
county department of job and family services of additional income 46576
not previously reported to the county department; 46577

(6) The department of job and family services providing 46578

written notice of a sanction under section 5107.161 of the Revised Code; 46579
46580

(7) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code; 46581
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46583

(8) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate. The rule shall be consistent with 42 U.S.C.A. 654(29). 46584
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(9) The administration of requirements governing the LEAP program provided for under section 5107.30 of the Revised Code, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program; 46589
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(10) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award; 46594
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(11) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code. Circumstances shall include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation. 46598
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~~(11)~~(12) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code. 46606
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(B) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment that is below an amount the department specifies.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

~~(3)~~(4) "Initial eligibility threshold" means the higher of the following:

(a) Fifty per cent of the federal poverty guidelines;

(b) The gross income maximum for initial eligibility for Ohio works first as that maximum was set by division (D)(1)(a) of this section on the day before the effective date of this amendment.

(5) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group 46639
shall receive, except as otherwise provided by this chapter, 46640
time-limited cash assistance. In the case of an assistance group 46641
that includes a minor head of household or adult, assistance shall 46642
be provided in accordance with the self-sufficiency contract 46643
entered into under section 5107.14 of the Revised Code. 46644

(C) To be eligible to participate in Ohio works first, an 46645
assistance group must meet all of the following requirements: 46646

(1) The assistance group, except as provided in division (E) 46647
of this section, must include at least one of the following: 46648

(a) A minor child who, except as provided in section 5107.24 46649
of the Revised Code, resides with a parent, or specified relative 46650
caring for the child, or, to the extent permitted by Title IV-A 46651
and federal regulations adopted until Title IV-A, resides with a 46652
guardian or custodian caring for the child; 46653

(b) A parent residing with and caring for the parent's minor 46654
child who receives supplemental security income under Title XVI of 46655
the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, 46656
as amended, or federal, state, or local adoption assistance; 46657

(c) A specified relative residing with and caring for a minor 46658
child who is related to the specified relative in a manner that 46659
makes the specified relative a specified relative and receives 46660
supplemental security income or federal, state, or local foster 46661
care or adoption assistance; 46662

(d) A woman at least six months pregnant. 46663

(2) The assistance group must meet the income requirements 46664
established by division (D) of this section. 46665

(3) No member of the assistance group may be involved in a 46666
strike. 46667

(4) The assistance group must satisfy the requirements for 46668

Ohio works first established by this chapter and sections 5101.58, 46669
5101.59, and 5101.83 of the Revised Code. 46670

(5) The assistance group must meet requirements for Ohio 46671
works first established by rules adopted under section 5107.05 of 46672
the Revised Code. 46673

(D)(1) Except as provided in division (D)~~(3)~~(4) of this 46674
section, to determine whether an assistance group is initially 46675
eligible to participate in Ohio works first, a county department 46676
of job and family services shall do the following: 46677

(a) Determine whether the assistance group's gross income 46678
exceeds the ~~following amount:~~ 46679

Size of Assistance Group	Gross Income	46680
1	\$423	46681
2	\$537	46682
3	\$630	46683
4	\$750	46684
5	\$858	46685
6	\$942	46686
7	\$1,038	46687
8	\$1,139	46688
9	\$1,241	46689
10	\$1,343	46690
11	\$1,440	46691
12	\$1,542	46692
13	\$1,643	46693
14	\$1,742	46694
15	\$1,844	46695

~~For each person in the assistance group that brings the 46696
assistance group to more than fifteen persons, add one hundred two 46697
dollars to the amount of gross income for an assistance group of 46698
fifteen specified in division (D)(1)(a) of this section. 46699~~

~~In~~ initial eligibility threshold. In making this 46700
determination, the county department shall disregard amounts that 46701
federal statutes or regulations and sections 5101.17 and 5117.10 46702
of the Revised Code require be disregarded. The assistance group 46703
is ineligible to participate in Ohio works first if the assistance 46704
group's gross income, less the amounts disregarded, exceeds the 46705
~~amount specified in division (D)(1)(a) of this section~~ initial 46706
eligibility threshold. 46707

(b) If the assistance group's gross income, less the amounts 46708
disregarded pursuant to division (D)(1)(a) of this section, does 46709
not exceed the ~~amount specified in that division~~ initial 46710
eligibility threshold, determine whether the assistance group's 46711
countable income is less than the payment standard. The assistance 46712
group is ineligible to participate in Ohio works first if the 46713
assistance group's countable income equals or exceeds the payment 46714
standard. 46715

(2) For the purpose of determining whether an assistance 46716
group meets the income requirement established by division 46717
(D)(1)(a) of this section, the annual revision that the United 46718
States department of health and human services makes to the 46719
federal poverty guidelines shall go into effect on the first day 46720
of July of the year for which the revision is made. 46721

(3) To determine whether an assistance group participating in 46722
Ohio works first continues to be eligible to participate, a county 46723
department of job and family services shall determine whether the 46724
assistance group's countable income continues to be less than the 46725
payment standard. In making this determination, the county 46726
department shall disregard the first two hundred fifty dollars and 46727
fifty per cent of the remainder of the assistance group's gross 46728
earned income. No amounts shall be disregarded from the assistance 46729
group's gross unearned income. The assistance group ceases to be 46730
eligible to participate in Ohio works first if its countable 46731

income, less the amounts disregarded, equals or exceeds the 46732
payment standard. 46733

~~(3)~~(4) If an assistance group reapplies to participate in 46734
Ohio works first not more than four months after ceasing to 46735
participate, a county department of job and family services shall 46736
use the income requirement established by division (D)~~(2)~~(3) of 46737
this section to determine eligibility for resumed participation 46738
rather than the income requirement established by division (D)(1) 46739
of this section. 46740

(E)(1) An assistance group may continue to participate in 46741
Ohio works first even though a public children services agency 46742
removes the assistance group's minor children from the assistance 46743
group's home due to abuse, neglect, or dependency if the agency 46744
does both of the following: 46745

(a) Notifies the county department of job and family services 46746
at the time the agency removes the children that it believes the 46747
children will be able to return to the assistance group within six 46748
months; 46749

(b) Informs the county department at the end of each of the 46750
first five months after the agency removes the children that the 46751
parent, guardian, custodian, or specified relative of the children 46752
is cooperating with the case plans prepared for the children under 46753
section 2151.412 of the Revised Code and that the agency is making 46754
reasonable efforts to return the children to the assistance group. 46755

(2) An assistance group may continue to participate in Ohio 46756
works first pursuant to division (E)(1) of this section for not 46757
more than six payment months. This division does not affect the 46758
eligibility of an assistance group that includes a woman at least 46759
six months pregnant. 46760

Sec. 5107.26. (A) As used in this section: 46761

(1) "Transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code.

(2) "Transitional medicaid" means the medical assistance provided under section ~~5111.023~~ 5111.0115 of the Revised Code.

(B) Except as provided in division (C) of this section, each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of the assistance group terminated the member's employment and each person who, on the day prior to the day a recipient begins to receive transitional child care or transitional medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care or transitional medicaid secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:	46792 46793
(a) The wage is less than the federal minimum wage;	46794
(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;	46795 46796 46797 46798 46799 46800 46801
(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;	46802 46803
(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.	46804 46805 46806
(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;	46807 46808 46809
(5) A documented household emergency;	46810
(6) Lack of adequate child care for children of the member or recipient who are under six years of age.	46811 46812
Sec. 5107.30. (A) As used in this section:	46813
(1) <u>"Equivalent of a high school diploma" and "good cause" have the meanings established in rules adopted under section 5107.05 of the Revised Code.</u>	46814 46815 46816
(2) <u>"LEAP program"</u> means the learning, earning, and parenting program.	46817 46818
(2) "Teen" (3) <u>"Participating teen"</u> means <u>an individual to whom all of the following apply:</u>	46819 46820

(a) The individual is a participant of Ohio works first who; 46821

(b) The individual is under age eighteen or is age eighteen 46822
and in school and is a natural or adoptive parent or is pregnant; 46823

(c) The individual is subject to the LEAP program's 46824
requirements. 46825

~~(3)~~(4) "School" means an educational program that is designed 46826
to lead to the attainment of a high school diploma or the 46827
equivalent of a high school diploma. 46828

(B) The director of job and family services may ~~adopt rules~~ 46829
~~under section 5107.05 of the Revised Code, to the extent that such~~ 46830
~~rules are consistent with federal law, to do all of the following:~~ 46831

~~(1) Define "good cause" and "the equivalent of a high school~~ 46832
~~diploma" for the purposes of this section;~~ 46833

~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and~~ 46834
~~establish requirements governing the program in accordance with~~ 46835
rules adopted under section 5107.05 of the Revised Code. The 46836
purpose of the LEAP program is to encourage teens to complete 46837
school. 46838

~~(3) Require every~~ Every participating teen ~~who is subject to~~ 46839
~~LEAP program requirements to~~ shall attend school in accordance 46840
with the requirements governing the LEAP program unless the 46841
participating teen shows good cause for not attending school. The 46842
department shall provide, in addition to the cash assistance 46843
payment provided under Ohio works first, an incentive payment, in 46844
an amount determined by the department, to every participating 46845
teen ~~who is participating in the LEAP program and~~ attends school 46846
in accordance with the requirements governing the LEAP program. In 46847
addition to the incentive payment, the department may provide 46848
other incentives to participating teens who attend school in 46849
accordance with the LEAP program's requirements. The department 46850

shall reduce the cash assistance payment, in an amount determined 46851
by the department, under Ohio works first to every participating 46852
~~teen participating in the LEAP program~~ who fails or refuses, 46853
without good cause, to meet the LEAP program's requirements 46854
~~governing the program.~~ 46855

~~(4) Require every~~ Every participating teen ~~who is subject to~~ 46856
~~LEAP program requirements to shall~~ enter into a written agreement 46857
with the county department of job and family services that 46858
~~provides~~ specifies all of the following: 46859

~~(a)(1)~~ The participating teen, to be eligible to receive the 46860
incentive payment and other incentives, if any, under ~~division~~ 46861
~~(B)(3)~~ of this section, must meet the requirements of the LEAP 46862
program. 46863

~~(b)(2)~~ The ~~county department will provide the~~ incentive 46864
payment ~~to the teen~~ and other incentives, if any, will be provided 46865
if the participating teen meets the requirements of the LEAP 46866
program. 46867

~~(c)(3)~~ The ~~county department will reduce the~~ participating 46868
teen's cash assistance payment under Ohio works first will be 46869
reduced if the participating teen fails or refuses without good 46870
cause to attend school in accordance with the requirements 46871
governing the LEAP program. 46872

(C) A minor head of household who is participating in the 46873
LEAP program shall be considered to be participating in a work 46874
activity for the purpose of sections 5107.40 to 5107.69 of the 46875
Revised Code. However, the minor head of household is not subject 46876
to the requirements or sanctions of those sections. 46877

(D) Subject to the availability of funds, county departments 46878
of job and family services shall provide for ~~LEAP participants~~ 46879
participating teens to receive support services the county 46880
department determines to be necessary for LEAP participation. 46881

Support services may include publicly funded child care under 46882
Chapter 5104. of the Revised Code, transportation, and other 46883
services. 46884

Sec. 5107.301. For the purpose of encouraging individuals who 46885
have successfully completed the requirements of the LEAP program 46886
to enroll in post-secondary education, the director of job and 46887
family services may provide an award to such individuals who 46888
enroll in post-secondary education. If provided, the award shall 46889
be provided in accordance with rules adopted under section 5107.05 46890
of the Revised Code. 46891

Sec. 5107.58. In accordance with a federal waiver granted by 46892
the United States secretary of health and human services pursuant 46893
to a request made under former section 5101.09 of the Revised 46894
Code, county departments of job and family services may establish 46895
and administer as a work activity for minor heads of households 46896
and adults participating in Ohio works first an education program 46897
under which the participant is enrolled full-time in 46898
post-secondary education leading to vocation at a state 46899
institution of higher education, as defined in section 3345.031 of 46900
the Revised Code; a private nonprofit college or university that 46901
possesses a certificate of authorization issued by the Ohio board 46902
of regents pursuant to Chapter 1713. of the Revised Code, or is 46903
exempted by division (E) of section 1713.02 of the Revised Code 46904
from the requirement of a certificate; a school that holds a 46905
certificate of registration and program authorization issued by 46906
the state board of career colleges and schools under Chapter 3332. 46907
of the Revised Code; a private institution exempt from regulation 46908
under Chapter 3332. of the Revised Code as prescribed in section 46909
3333.046 of the Revised Code; or a school that has entered into a 46910
contract with the county department of job and family services. 46911
The participant shall make reasonable efforts, as determined by 46912

the county department, to obtain a loan, scholarship, grant, or 46913
other assistance to pay for the tuition, including a federal Pell 46914
grant under 20 U.S.C.A. 1070a ~~and~~, an Ohio instructional grant 46915
under section 3333.12 of the Revised Code, and an Ohio college 46916
opportunity grant under section 3333.122 of the Revised Code. If 46917
the participant has made reasonable efforts but is unable to 46918
obtain sufficient assistance to pay the tuition the program may 46919
pay the tuition. On or after October 1, 1998, the county 46920
department may enter into a loan agreement with the participant to 46921
pay the tuition. The total period for which tuition is paid and 46922
loans made shall not exceed two years. If the participant, 46923
pursuant to division (B)(3) of section 5107.43 of the Revised 46924
Code, volunteers to participate in the education program for more 46925
hours each week than the participant is assigned to the program, 46926
the program may pay or the county department may loan the cost of 46927
the tuition for the additional voluntary hours as well as the cost 46928
of the tuition for the assigned number of hours. The participant 46929
may receive, for not more than three years, support services, 46930
including publicly funded child care under Chapter 5104. of the 46931
Revised Code and transportation, that the participant needs to 46932
participate in the program. To receive support services in the 46933
third year, the participant must be, as determined by the 46934
educational institution in which the participant is enrolled, in 46935
good standing with the institution. 46936

A county department that provides loans under this section 46937
shall establish procedures governing loan application for and 46938
approval and administration of loans granted pursuant to this 46939
section. 46940

Sec. 5110.01. As used in this chapter: 46941

(A) "Administrative fee" means the amount specified in rules 46942
adopted under division (G) of section 5110.35 of the Revised Code. 46943

(B) "Children's health insurance program" means the 46944
children's health insurance program part I and part II established 46945
under sections 5101.50 to 5101.5110 of the Revised Code. 46946

~~(C) "Disability medical assistance program" means the program 46947
established under section 5115.10 of the Revised Code. 46948~~

~~(D)~~ "Medicaid" means the medical assistance program 46949
established under Chapter 5111. of the Revised Code. 46950

~~(E)~~(D) "National drug code number" means the number 46951
registered for a drug pursuant to the listing system established 46952
by the United States food and drug administration under the "Drug 46953
Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 46954

~~(F)~~(E) "Ohio's best Rx program administrator" means the 46955
entity, if any, the department of job and family services 46956
contracts with pursuant to section 5110.10 of the Revised Code to 46957
perform administrative functions of the Ohio's best Rx program and 46958
to offer the mail order system through which Ohio's best Rx 46959
program participants may obtain drugs by mail. 46960

~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" 46961
means an individual who signs an application for the Ohio's best 46962
Rx program and submits it to the department of job and family 46963
services, or the Ohio's best Rx program administrator, for a 46964
determination of eligibility for the program. 46965

~~(H)~~(G) "Ohio's best Rx program participant" or "participant" 46966
means an individual determined eligible for the Ohio's best Rx 46967
program and included under a valid Ohio's best Rx program 46968
enrollment card. 46969

~~(I)~~(H) "Ohio's best Rx program price" means the price a 46970
participating terminal distributor is to charge an Ohio's best Rx 46971
program participant for a drug included in the Ohio's best Rx 46972
program as determined under section 5110.14 of the Revised Code. 46973

"Ohio's best Rx program price" does not include either of the 46974
following: 46975

(1) The amount of the professional fee, if any, the 46976
participating terminal distributor adds to the Ohio's best Rx 46977
program price pursuant to an agreement under section 5110.12 of 46978
the Revised Code; 46979

(2) The amount of the administrative fee, if any, the 46980
department of job and family services reports to the participating 46981
terminal distributor under section 5110.29 of the Revised Code. 46982

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer 46983
participating in the Ohio's best Rx program pursuant to a rebate 46984
agreement. 46985

~~(K)~~(J) "Participating terminal distributor" means a terminal 46986
distributor of dangerous drugs participating in the Ohio's best Rx 46987
program pursuant to an agreement entered into with the department 46988
of job and family services under section 5110.12 of the Revised 46989
Code. 46990

~~(L)~~(K) "Per unit price," with regard to a state health 46991
benefit plan or state retirement system health benefit plan, means 46992
the total amount paid to a terminal distributor of dangerous drugs 46993
under a state health benefit plan or state retirement system 46994
health benefit plan for one unit of a drug covered by the plan, 46995
after the plan discounts or otherwise reduces the amount to be 46996
paid to the terminal distributor. "Per unit price" includes both 46997
of the following: 46998

(1) The amount that the state health benefit plan or state 46999
retirement system health benefit plan, or other government entity 47000
or person authorized to make the payment on behalf of the plan, 47001
pays to the terminal distributor of dangerous drugs; 47002

(2) The amount that the beneficiary of the state health 47003
benefit plan or state retirement system health benefit plan pays 47004

to the terminal distributor of dangerous drugs in the form of a 47005
copayment, coinsurance, or other cost-sharing charge. 47006

~~(M)~~(L) "Per unit rebate," with regard to a state health 47007
benefit plan or state retirement system health benefit plan, means 47008
all rebates, discounts, formulary fees, administrative fees, and 47009
other allowances a drug manufacturer pays to the plan, or other 47010
government entity or person authorized to receive all or part of 47011
such payments, for a drug during a calendar year, divided by the 47012
total number of units of that drug dispensed under the plan during 47013
the same calendar year. 47014

~~(N)~~(M) "Rebate administration percentage" means the 47015
percentage specified in rules adopted under division (K) of 47016
section 5110.35 of the Revised Code. 47017

~~(O)~~(N) "Rebate agreement" means an agreement under section 47018
5110.21 of the Revised Code between the department of job and 47019
family services and a drug manufacturer. 47020

~~(P)~~(O) "State health benefit plan" means a program of health 47021
care benefits offered through the Ohio med preferred provider 47022
organization, or a successor entity selected by the state, to 47023
which either of the following apply: 47024

(1) It is provided by a collective bargaining agreement 47025
authorized by division (A)(4) of section 4117.03 of the Revised 47026
Code. 47027

(2) It is offered by the department of administrative 47028
services to state employees in accordance with section 124.81 or 47029
124.82 of the Revised Code. 47030

~~(Q)~~(P) "State retirement system" means all of the following: 47031
the public employees retirement system, state teachers retirement 47032
system, school employees retirement system, Ohio police and fire 47033
pension fund, and state highway patrol retirement system. 47034

~~(R)~~(Q) "State retirement system health benefit plan" means a 47035
plan of health care benefits offered by a state retirement system 47036
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 47037
Revised Code. 47038

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same 47039
meaning as in section 4729.01 of the Revised Code. 47040

~~(T)~~(S) "Third-party payer" has the same meaning as in section 47041
3901.38 of the Revised Code. 47042

~~(U)~~(T) "Trade secret" has the same meaning as in section 47043
1333.61 of the Revised Code. 47044

~~(V)~~(U) "Usual and customary charge" means the amount a 47045
participating terminal distributor or the Ohio's best Rx program 47046
administrator charges for a drug included in the program to an 47047
individual who does not receive a discounted price for the drug 47048
pursuant to any drug discount program, including the Ohio's best 47049
Rx program, a prescription drug discount card program established 47050
under section 173.061 of the Revised Code, or a pharmacy 47051
assistance program established by any person or government entity, 47052
and for whom no third-party payer or program funded in whole or 47053
part with state or federal funds is responsible for all or part of 47054
the cost of the drug the distributor dispenses to the individual. 47055

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx 47056
program, an individual must meet all of the following requirements 47057
at the time of application or reapplication for the program: 47058

(1) Be a resident of this state; 47059

(2) Have family income, as determined under rules adopted 47060
pursuant to section 5110.35 of the Revised Code, that does not 47061
exceed two hundred fifty per cent of the federal poverty 47062
guidelines, as revised annually by the United States department of 47063
health and human services in accordance with section 673(2) of the 47064

"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 47065
U.S.C. 9902, as amended, or be sixty years of age or older; 47066

(3) Not have outpatient prescription drug coverage paid for 47067
in whole or in part by any of the following: 47068

(a) A third-party payer; 47069

(b) The medicaid program; 47070

(c) The children's health insurance program; 47071

(d) ~~The disability medical assistance program;~~ 47072

~~(e)~~ Another health plan or pharmacy assistance program that 47073
uses state or federal funds to pay part or all of the cost of the 47074
individual's outpatient prescription drugs, other than a 47075
prescription drug discount card program established under section 47076
173.061 of the Revised Code. 47077

(4) Not have had outpatient prescription drug coverage 47078
specified in division (A)(3) of this section during any of the 47079
four months preceding the month in which the application or 47080
reapplication for the Ohio's best Rx program is made, unless any 47081
of the following applies: 47082

(a) The individual is sixty years of age or older. 47083

(b) The third-party payer that paid all or part of the 47084
coverage filed for bankruptcy under federal bankruptcy laws. 47085

(c) The individual is no longer eligible for coverage 47086
provided through a retirement plan subject to protection under the 47087
"Employee Retirement Income Security Act of 1974," 88 Stat. 832, 47088
29 U.S.C. 1001, as amended. 47089

(d) The individual is no longer eligible for the medicaid 47090
program, or children's health insurance program, ~~or disability~~ 47091
~~medical assistance program.~~ 47092

(B) Application and annual reapplication for the Ohio's best 47093

Rx program shall be made in accordance with rules adopted under 47094
section 5110.35 of the Revised Code on a form prescribed in those 47095
rules. An individual may apply or reapply on behalf of the 47096
individual and the individual's spouse and children. The guardian 47097
or custodian of an individual may apply or reapply on behalf of 47098
the individual. 47099

Sec. 5110.352. As used in this section, "medicaid dispensing 47100
fee" means the dispensing fee established under section ~~5111.08~~ 47101
5111.071 of the Revised Code for the medicaid program. 47102

In adopting a rule under division (F) of section 5110.35 of 47103
the Revised Code increasing the maximum amount of the professional 47104
fee participating terminal distributors may charge Ohio's best Rx 47105
program participants under section 5110.12 of the Revised Code and 47106
the Ohio's best Rx program administrator may charge under a 47107
contract entered into under section 5110.10 of the Revised Code, 47108
the department of job and family services shall review the amount 47109
of the professional fee once a year or, at the department's 47110
discretion, at more frequent intervals and shall not increase the 47111
professional fee to an amount exceeding the medicaid dispensing 47112
fee. 47113

A participating terminal distributor and the Ohio's best Rx 47114
program administrator may charge a maximum three dollar 47115
professional fee regardless of whether the medicaid dispensing fee 47116
for that drug is less than that amount. The department, however, 47117
may not adopt a rule increasing the maximum professional fee for 47118
that drug until the medicaid dispensing fee for that drug exceeds 47119
that amount. 47120

Sec. 5110.39. Not later than ~~April 1, 2005~~ the first day of 47121
March of each year, the department of job and family services 47122
shall do all of the following: 47123

(A) Create a list of the twenty-five drugs most often 47124
dispensed to Ohio's best Rx program participants under the 47125
program, using data from the most recent six-month period for 47126
which the data is available; 47127

(B) Determine the average amount that participating terminal 47128
distributors charge, on a date selected by the department, 47129
participants for each drug included on the list created under 47130
division (A) of this section; 47131

(C) Determine, for the date selected for division (B) of this 47132
section, the average usual and customary charge of participating 47133
terminal distributors for each drug included on the list created 47134
under division (A) of this section; 47135

(D) By comparing the average charges determined under 47136
divisions (B) and (C) of this section, determine the average 47137
percentage savings in the amount participating terminal 47138
distributors charge Ohio's best Rx program participants for each 47139
drug included on the list created under division (A) of this 47140
section. 47141

Sec. 5111.011. (A) As used in this section: 47142

(1) "Intermediate care facility for the mentally retarded" 47143
has the same meaning as in section 5111.20 of the Revised Code. 47144

(2) "Nursing facility" means a facility defined as a nursing 47145
facility under Sec. 1919 of the "Social Security Act," 49 Stat. 47146
620 (1935), 42 U.S.C. 1396r, as amended has the same meaning as in 47147
section 5111.20 of the Revised Code. 47148

~~(2)~~(3) "Institutionalized individual" means an individual who 47149
is a patient in a nursing facility or who receives home and 47150
community-based services under a federal waiver granted the 47151
department of job and family services under 42 U.S.C. 47152
1396a(10)(A)(ii)(VI). 47153

(B) Subject to this section, the director of job and family services shall, pursuant to section 111.15 of the Revised Code, adopt rules establishing eligibility requirements for the ~~medical assistance~~ medicaid program and defining, consistent with federal law, the term "resources" as used in this section.

(C) In determining eligibility for ~~medical assistance~~ the medicaid program, the following shall apply with respect to real property used by an aged, blind or disabled applicant or recipient as a homestead or principal place of residence:

(1) The value of ~~real~~ the property of ~~aged, blind, or disabled persons used as a homestead by such persons~~ shall be the maximum allowed under Title XVI of the "Social Security Act.," 86 Stat. 1329 (1972), 42 U.S.C. 1381;

(2) Except as provided in division (C)(3) of this section, the department of job and family services may consider the property to not be the homestead or principal place of residence of the applicant or recipient if the applicant or recipient resides in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution for thirteen months or longer.

(3) Division (C)(2) of this section does not apply if any of the following individuals reside in the applicant's or recipient's real property used as a homestead or principal place of residence:

(a) The applicant's or recipient's spouse;

(b) A son or daughter of the applicant or recipient, if the son or daughter is under twenty-one years of age or blind or disabled in accordance with rules adopted by the director of job and family services;

(c) A son or daughter of the applicant or recipient, if the son or daughter is financially dependent on the applicant or

recipient for housing in accordance with rules adopted by the 47184
director of job and family services; 47185

(d) A sibling of the applicant or recipient, if the sibling 47186
has a verified equity and ownership interest in the real property 47187
and has resided in the real property for at least one year 47188
immediately before the date the applicant or recipient was 47189
admitted to the nursing facility, intermediate care facility for 47190
the mentally retarded, or other medical institution. 47191

(D) Except as provided in division (G) of this section, no 47192
person is eligible for ~~medical assistance~~ the medicaid program if 47193
on or prior to December 31, 1989, the person has transferred real 47194
or personal property for the purpose of securing ~~medical~~ 47195
~~assistance under section 5111.01 of the Revised Code~~ medicaid 47196
eligibility and the transfer occurred during the two years 47197
preceding the person's application. In order to secure compliance 47198
with this division, the director of job and family services shall 47199
require all applicants for ~~assistance~~ medicaid to submit true and 47200
correct copies of any federal income or gift tax form or schedule 47201
filed, singly or jointly, by the applicant during the preceding 47202
five taxable years. Such copies, and the information disclosed 47203
thereon, shall be used solely for the purpose of determining the 47204
probability of whether the applicant has transferred assets in 47205
violation of this division. The director shall provide for the 47206
confidentiality and return of any copies of forms or schedules 47207
submitted under this division. Where such copies reveal the 47208
probability that an applicant has transferred assets in violation 47209
of this division, a presumption arises that the applicant has 47210
transferred assets in violation of this division, and the director 47211
shall deny the application until the applicant submits a true and 47212
accurate expenditure statement to the director that shows the 47213
applicant did not violate this division. The director of job and 47214
family services shall adopt rules to implement this provision. 47215

(E)(1) Except as provided in ~~division~~ divisions (E)(2) and 47216
(G) of this section, an institutionalized individual who is 47217
otherwise eligible for ~~medical assistance~~ medicaid shall be 47218
ineligible for nursing facility services or services provided 47219
under a home and community-based waiver for a period specified in 47220
rules adopted under division ~~(E)(2)(3)~~ of this section if the 47221
institutionalized individual or individual's spouse, on or after 47222
January 1, 1990, transfers resources for less than fair market 47223
value at any time during or after ~~a period of time, as specified~~ 47224
~~in rules adopted under division (E)(2) of this section, the~~ 47225
five-year period immediately prior to either of the following: 47226

(a) The date the individual becomes an institutionalized 47227
individual if the individual is eligible for ~~medical assistance~~ 47228
medicaid on that date; 47229

(b) The date the individual applies for ~~medical assistance~~ 47230
medicaid while an institutionalized individual. 47231

(2) The director shall apply to the United States secretary 47232
of health and human services for a waiver of federal law governing 47233
the medicaid program as necessary for the implementation of the 47234
five-year look-back period provided for by division (E)(1) of this 47235
section. If a waiver is not approved, the look-back period shall 47236
be the period of time specified in 42 U.S.C. 1396p(c). 47237

(3) The director shall adopt rules specifying, for the 47238
purpose of division (E)(1) of this section, the ~~period of time~~ 47239
~~preceding institutionalization or application for medical~~ 47240
~~assistance during which transfers of assets for less than fair~~ 47241
~~market value are prohibited and the length of the resulting period~~ 47242
of ineligibility due to transfers of resources for less than fair 47243
market value on or after the look-back date. The period of 47244
ineligibility shall begin with the month in which the resources 47245
were transferred. The rules shall be consistent with Title XIX of 47246

the "Social Security Act-," 79 Stat. 286 (1965), 42 U.S.C. 1396. 47247
The department shall allow exceptions to the period of 47248
ineligibility to the extent that exceptions are permitted by that 47249
title. An exception based on undue hardship to the 47250
institutionalized individual shall be allowed only so long as the 47251
individual cooperates with the department or the county department 47252
of job and family services in securing the return of transferred 47253
resources. 47254

~~(3)~~(4) To secure compliance with this division, the 47255
department may require applicants for and recipients of ~~medical~~ 47256
~~assistance~~ medicaid, as a condition of eligibility, to provide 47257
documentation of their income and resources up to five years prior 47258
to the ~~time of application~~ date the individual becomes an 47259
institutionalized individual if the individual is eligible for 47260
medicaid on that date or the date the individual applies for 47261
medicaid while an institutionalized individual. Documentation may 47262
include, but is not limited to, tax returns, records from 47263
financial institutions, and real property records. 47264

(F) The director shall, by rule adopted in accordance with 47265
section 111.15 of the Revised Code, establish standards consistent 47266
with federal law for allocating income and resources as income and 47267
resources of the spouse, children, parents, or stepparents of a 47268
recipient of or applicant for ~~medical assistance~~ medicaid. 47269
Notwithstanding any provision of state law, including statutes, 47270
administrative rules, common law, and court rules, regarding real 47271
or personal property or domestic relations, the standards 47272
established under this division shall be used to determine 47273
eligibility for ~~medical assistance~~ medicaid. 47274

(G) The director may, by rule adopted in accordance with 47275
section 111.15 of the Revised Code, exempt individuals who apply 47276
for or receive ~~any medical assistance~~ medicaid that may be 47277
provided pursuant to division (C) of section 5111.01 of the 47278

Revised Code from some or all of the requirements of this section. 47279

Sec. 5111.019. (A) The director of job and family services 47280
shall submit to the United States secretary of health and human 47281
services an amendment to the state medicaid plan to make an 47282
individual who meets all of the following requirements eligible 47283
for medicaid for the amount of time provided by division (B) of 47284
this section: 47285

(1) The individual is the parent of a child under nineteen 47286
years of age and resides with the child; 47287

(2) The individual's family income does not exceed ~~one~~ 47288
~~hundred ninety~~ per cent of the federal poverty guidelines; 47289

(3) The individual is not otherwise eligible for medicaid; 47290

(4) The individual satisfies all relevant requirements 47291
established by rules adopted under division (D) of section 5111.01 47292
of the Revised Code. 47293

(B) An individual is eligible to receive medicaid under this 47294
section for a period that does not exceed two years beginning on 47295
the date on which eligibility is established. 47296

~~(C) If approved by the United States secretary of health and 47297
human services and the director of job and family services, the 47298
director shall implement the medicaid plan amendment submitted 47299
under this section not sooner than July 1, 2000. If a federal 47300
waiver is necessary for the United States secretary to approve the 47301
amendment, the director of job and family services shall submit a 47302
waiver request to the United States secretary not later than 47303
ninety days after the effective date of this section. 47304~~

Sec. 5111.0112. (A) The director of job and family services 47305
shall ~~examine instituting~~ institute a copayment program under 47306
medicaid. ~~As part of the examination, the director shall determine 47307~~

~~which~~ Except as provided in division (C) of this section, the 47308
copayment program shall establish a copayment requirement for all 47309
groups of medicaid recipients ~~may be subjected to a copayment~~ 47310
~~requirement under~~ and medicaid services to the extent permitted by 47311
federal statutes and regulations. ~~If, on completion of the~~ 47312
~~examination, the director determines that it is feasible to~~ 47313
~~institute such a copayment program, the director may seek approval~~ 47314
~~from the United States secretary of health and human services to~~ 47315
~~institute the copayment program. If necessary, the director may~~ 47316
~~seek approval by applying for a waiver of federal statutes and~~ 47317
~~regulations. If such approval is obtained, the~~ The amount of the 47318
copayments shall be the maximum amount permitted by 42 C.F.R. 47319
447.54 or a regulation that replaces it. The director shall adopt 47320
rules in accordance with Chapter 119. under section 5111.02 of the 47321
Revised Code governing the copayment program. 47322

(B) The copayment program shall, to the extent permitted by 47323
federal law, provide for all of the following with regard to any 47324
providers participating in the medicaid program: 47325

(1) No provider shall refuse to provide a service to a 47326
medicaid recipient who is unable to pay a required copayment for 47327
the service. 47328

(2) Division (B)(1) of this section shall not be considered 47329
to do either of the following with regard to a medicaid recipient 47330
who is unable to pay a required copayment: 47331

(a) Relieve the medicaid recipient from the obligation to pay 47332
a copayment; 47333

(b) Prohibit the provider from attempting to collect an 47334
unpaid copayment. 47335

(3) No provider shall waive a medicaid recipient's obligation 47336
to pay the provider a copayment. 47337

(4) No provider or drug manufacturer, including the 47338

manufacturer's representative, employee, independent contractor, 47339
or agent, shall pay any copayment on behalf of a medicaid 47340
recipient. 47341

(5) If it is the routine business practice of the provider to 47342
refuse service to any individual who owes an outstanding debt to 47343
the provider, the provider shall consider an unpaid copayment 47344
imposed by the copayment program as an outstanding debt and shall 47345
refuse service to a medicaid recipient who owes the provider an 47346
outstanding debt. If the provider intends to refuse service to a 47347
medicaid recipient who owes the provider an outstanding debt, the 47348
provider shall notify the individual of the provider's intent to 47349
refuse services. 47350

(C) The director shall exclude generic drugs from the 47351
copayment program instituted under this section. 47352

Sec. 5111.0114. (A) As used in this section, "dangerous drug" 47353
and "manufacturer of dangerous drugs" have the same meaning as in 47354
section 4729.01 of the Revised Code. 47355

(B) The director of job and family services may enter into or 47356
administer an agreement or cooperative arrangement with other 47357
states to create or join a multiple-state prescription drug 47358
purchasing program for the purpose of negotiating with 47359
manufacturers of dangerous drugs to receive discounts or rebates 47360
for dangerous drugs dispensed under the medicaid program. 47361

Sec. 5111.023 5111.0115. (A) The department of job and family 47362
services may provide medical assistance under ~~Title XIX of the~~ 47363
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as~~ 47364
~~amended, in addition to such assistance provided under section~~ 47365
~~5111.01 of the Revised Code~~ the medicaid program, as long as 47366
federal funds are provided for such assistance, to each former 47367
participant of the Ohio works first program established under 47368

Chapter 5107. of the Revised Code who meets all of the following requirements: 47369
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(1) Is ineligible to participate in Ohio works first solely as a result of increased income due to employment; 47371
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(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; 47373
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(3) Meets any other requirement established by rule adopted under division (B) of this section. 47378
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(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. 47380
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(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. 47384
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(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 the same extent and in the same manner as medical assistance is provided to a person eligible for medical assistance pursuant to division (A)(1)(a) of section 5111.01 of the Revised Code, for no longer than twelve months, beginning the month after the date the participant's eligibility for Ohio works first is terminated. 47390
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Sec. 5111.02. The director of job and family services shall 47398

adopt, and may amend or rescind, rules under Chapter 119. of the 47399
Revised Code establishing the amount, duration, and scope of 47400
medicaid services. The rules shall be consistent with federal and 47401
state law. The rules may be different for different medicaid 47402
services. The rules shall establish all of the following: 47403

(A) The conditions under which the medicaid program shall 47404
cover and reimburse medicaid services; 47405

(B) The method of reimbursement applicable to each medicaid 47406
service; 47407

(C) The amount of reimbursement or, in lieu of amounts, 47408
methods by which amounts are to be determined for each medicaid 47409
service; 47410

(D) Procedures for enforcing the rules adopted under this 47411
section that provide due process protections, including procedures 47412
for corrective action plans for, and imposing financial and 47413
administrative sanctions on, persons and government entities that 47414
violate the rules. 47415

Sec. ~~5111.02~~ 5111.021. ~~(A)~~ Under the ~~medical assistance~~ 47416
~~medicaid~~ program: 47417

~~(1)~~(A) Except as otherwise permitted by federal statute or 47418
regulation and at the department's discretion, reimbursement by 47419
the department of job and family services to a medical provider 47420
for any medical service rendered under the program shall not 47421
exceed the authorized reimbursement level for the same service 47422
under the medicare program established under Title XVIII of the 47423
"Social Security Act," 49 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 47424
U.S.C.A. ~~301~~ 1395, as amended. 47425

~~(2)~~(B) Reimbursement for freestanding medical laboratory 47426
charges shall not exceed the customary and usual fee for 47427

laboratory profiles. 47428

~~(3)(C)~~ The department may deduct from payments for services 47429
rendered by a medicaid provider under the ~~medical assistance~~ 47430
medicaid program any amounts the provider owes the state as the 47431
result of incorrect ~~medical assistance~~ medicaid payments the 47432
department has made to the provider. 47433

~~(4)(D)~~ The department may conduct final fiscal audits in 47434
accordance with the applicable requirements set forth in federal 47435
laws and regulations and determine any amounts the provider may 47436
owe the state. When conducting final fiscal audits, the department 47437
shall consider generally accepted auditing standards, which 47438
include the use of statistical sampling. 47439

~~(5)(E)~~ The number of days of inpatient hospital care for 47440
which reimbursement is made on behalf of a medicaid recipient ~~of~~ 47441
~~medical assistance~~ to a hospital that is not paid under a 47442
diagnostic-related-group prospective payment system shall not 47443
exceed thirty days during a period beginning on the day of the 47444
recipient's admission to the hospital and ending sixty days after 47445
the termination of that hospital stay, except that the department 47446
may make exceptions to this limitation. The limitation does not 47447
apply to children participating in the program for medically 47448
handicapped children established under section 3701.023 of the 47449
Revised Code. 47450

~~(B)~~ ~~The director of job and family services may adopt, amend,~~ 47451
~~or rescind rules under Chapter 119. of the Revised Code~~ 47452
~~establishing the amount, duration, and scope of medical services~~ 47453
~~to be included in the medical assistance program. Such rules shall~~ 47454
~~establish the conditions under which services are covered and~~ 47455
~~reimbursed, the method of reimbursement applicable to each covered~~ 47456
~~service, and the amount of reimbursement or, in lieu of such~~ 47457
~~amounts, methods by which such amounts are to be determined for~~ 47458
~~each covered service. Any rules that pertain to nursing facilities~~ 47459

~~or intermediate care facilities for the mentally retarded shall be~~ 47460
~~consistent with sections 5111.20 to 5111.33 of the Revised Code.~~ 47461

~~(C)~~(F) The division of any reimbursement between a 47462
collaborating physician or podiatrist and a clinical nurse 47463
specialist, certified nurse-midwife, or certified nurse 47464
practitioner for services performed by the nurse shall be 47465
determined and agreed on by the nurse and collaborating physician 47466
or podiatrist. In no case shall reimbursement exceed the payment 47467
that the physician or podiatrist would have received had the 47468
physician or podiatrist provided the entire service. 47469

Sec. ~~5111.021~~ 5111.022. Under the ~~medical assistance~~ medicaid 47470
program, any amount determined to be owed the state by a final 47471
fiscal audit conducted pursuant to division ~~(A)(4)~~(D) of section 47472
~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an 47473
adjudication order pursuant to Chapter 119. of the Revised Code 47474
that contains a finding that there is a preponderance of the 47475
evidence that the provider will liquidate assets or file 47476
bankruptcy in order to prevent payment of the amount determined to 47477
be owed the state, becomes a lien upon the real and personal 47478
property of the provider. Upon failure of the provider to pay the 47479
amount to the state, the director of job and family services shall 47480
file notice of the lien, for which there shall be no charge, in 47481
the office of the county recorder of the county in which it is 47482
ascertained that the provider owns real or personal property. The 47483
director shall notify the provider by mail of the lien, but 47484
absence of proof that the notice was sent does not affect the 47485
validity of the lien. The lien is not valid as against the claim 47486
of any mortgagee, pledgee, purchaser, judgment creditor, or other 47487
lienholder of record at the time the notice is filed. 47488

If the provider acquires real or personal property after 47489
notice of the lien is filed, the lien shall not be valid as 47490

against the claim of any mortgagee, pledgee, subsequent bona fide 47491
purchaser for value, judgment creditor, or other lienholder of 47492
record to such after-acquired property unless the notice of lien 47493
is refiled after the property is acquired by the provider and 47494
before the competing lien attaches to the after-acquired property 47495
or before the conveyance to the subsequent bona fide purchaser for 47496
value. 47497

When the amount has been paid, the provider may record with 47498
the recorder notice of the payment. For recording such notice of 47499
payment, the recorder shall charge and receive from the provider a 47500
base fee of one dollar for services and a housing trust fund fee 47501
of one dollar pursuant to section 317.36 of the Revised Code. 47502

In the event of a distribution of a provider's assets 47503
pursuant to an order of any court under the law of this state 47504
including any receivership, assignment for benefit of creditors, 47505
adjudicated insolvency, or similar proceedings, amounts then or 47506
thereafter due the state under this chapter have the same priority 47507
as provided by law for the payment of taxes due the state and 47508
shall be paid out of the receivership trust fund or other such 47509
trust fund in the same manner as provided for claims for unpaid 47510
taxes due the state. 47511

If the attorney general finds after investigation that any 47512
amount due the state under this chapter is uncollectable, in whole 47513
or in part, the attorney general shall recommend to the director 47514
the cancellation of all or part of the claim. The director may 47515
thereupon effect the cancellation. 47516

Sec. ~~5111.022~~ 5111.023. (A) As used in this section: 47517

(1) "Community mental health facility" means a community 47518
mental health facility that has a quality assurance program 47519
accredited by the joint commission on accreditation of healthcare 47520

organizations or is certified by the department of mental health 47521
or department of job and family services. 47522

(2) "Mental health professional" means a person qualified to 47523
work with mentally ill persons under the standards established by 47524
the director of mental health pursuant to section 5119.611 of the 47525
Revised Code. 47526

(B) The state medicaid plan shall include provision of the 47527
following mental health services when provided by community mental 47528
health facilities: 47529

(1) Outpatient mental health services, including, but not 47530
limited to, preventive, diagnostic, therapeutic, rehabilitative, 47531
and palliative interventions rendered to individuals in an 47532
individual or group setting by a mental health professional in 47533
accordance with a plan of treatment appropriately established, 47534
monitored, and reviewed; 47535

(2) Partial-hospitalization mental health services of three 47536
to fourteen hours per service day, rendered by persons directly 47537
supervised by a mental health professional; 47538

(3) Unscheduled, emergency mental health services of a kind 47539
ordinarily provided to persons in crisis when rendered by persons 47540
supervised by a mental health professional; 47541

(4) Subject to receipt of federal approval, assertive 47542
community treatment and intensive home-based mental health 47543
services. 47544

(C) The comprehensive annual plan shall certify the 47545
availability of sufficient unencumbered community mental health 47546
state subsidy and local funds to match federal medicaid 47547
reimbursement funds earned by community mental health facilities. 47548

(D) The department of job and family services shall enter 47549
into a separate contract with the department of mental health 47550

under section 5111.91 of the Revised Code with regard to the 47551
component of the medicaid program provided for by this section. 47552

(E) Not later than July 21, ~~2004~~ 2007, the department of job 47553
and family services shall request federal approval to provide 47554
assertive community treatment and intensive home-based mental 47555
health services under medicaid pursuant to this section. 47556

(F) On receipt of federal approval sought under division (E) 47557
of this section, the director of job and family services shall 47558
adopt rules in accordance with Chapter 119. of the Revised Code 47559
for assertive community treatment and intensive home-based mental 47560
health services provided under medicaid pursuant to this section. 47561
The director shall consult with the department of mental health in 47562
adopting the rules. 47563

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 47564
the Revised Code, the director of job and family services shall 47565
modify the manner or establish a new manner in which the following 47566
are paid under medicaid: 47567

(1) Community mental health facilities for providing mental 47568
health services included in the state medicaid plan pursuant to 47569
section ~~5111.022~~ 5111.023 of the Revised Code; 47570

(2) Providers of alcohol and drug addiction services for 47571
providing alcohol and drug addiction services included in the 47572
medicaid program pursuant to rules adopted under section 5111.02 47573
of the Revised Code. 47574

(B) The director's authority to modify the manner, or to 47575
establish a new manner, for medicaid to pay for the services 47576
specified in division (A) of this section is not limited by any 47577
rules adopted under section 5111.02 or 5119.61 of the Revised Code 47578
that are in effect on ~~the effective date of this section~~ June 26, 47579
2003, and govern the way medicaid pays for those services. This is 47580

the case regardless of what state agency adopted the rules. 47581

Sec. 5111.027. If the medicaid program provides prescription 47582
drug services to medicaid recipients, the program shall not 47583
provide reimbursement for prescription drugs for treatment of 47584
erectile dysfunction. 47585

Sec. 5111.028. (A) The director of job and family services 47586
may establish a step therapy system for the medicaid program under 47587
which a medicaid provider shall do, except as provided in division 47588
(B) of this section, all of the following: 47589

(1) When prescribing an initial medical treatment for a 47590
medicaid recipient, prescribe the least costly treatment that can 47591
be used to safely and effectively treat the medicaid recipient's 47592
symptoms or effect a cure for the medicaid recipient's medical 47593
condition; 47594

(2) If the initial medical treatment does not treat the 47595
symptoms or effect a cure, sequentially prescribe increasingly 47596
more costly treatments after providing the director with clinical 47597
substantiation that the previous treatment was unsafe or 47598
ineffective in treating the symptoms or effecting a cure. 47599

(B) A medicaid provider is not required to follow the step 47600
therapy system if the treatment a medicaid recipient needs is an 47601
antiretroviral agent. 47602

Sec. 5111.042. The departments of mental retardation and 47603
developmental disabilities and job and family services may 47604
approve, reduce, deny, or terminate a service included in the 47605
individualized service plan developed for a medicaid recipient 47606
with mental retardation or other developmental disability who is 47607
eligible for medicaid case management services. ~~The departments 47608~~
~~shall consider the recommendations a county board of mental 47609~~

~~retardation and developmental disabilities makes under division~~ 47610
~~(B)(1) of section 5126.055 of the Revised Code.~~ If either 47611
department approves, reduces, denies, or terminates a service, 47612
that department shall timely notify the medicaid recipient that 47613
the recipient may request a hearing under section 5101.35 of the 47614
Revised Code. 47615

Sec. 5111.06. (A)(1) As used in this section and in sections 47616
5111.061 and 5111.062 of the Revised Code: 47617

(a) "Provider" means any person, institution, or entity that 47618
furnishes medicaid services under a provider agreement with the 47619
department of job and family services pursuant to Title XIX of the 47620
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 47621
amended. 47622

(b) "Party" has the same meaning as in division (G) of 47623
section 119.01 of the Revised Code. 47624

(c) "Adjudication" has the same meaning as in division (D) of 47625
section 119.01 of the Revised Code. 47626

(2) This section does not apply to any action taken by the 47627
department of job and family services under sections 5111.35 to 47628
5111.62 of the Revised Code. 47629

(B) Except as provided in division (D) of this section and 47630
section 5111.914 of the Revised Code, the department shall do 47631
either of the following by issuing an order pursuant to an 47632
adjudication conducted in accordance with Chapter 119. of the 47633
Revised Code: 47634

(1) Enter into or refuse to enter into a provider agreement 47635
with a provider, or suspend, terminate, renew, or refuse to renew 47636
an existing provider agreement with a provider; 47637

(2) Take any action based upon a final fiscal audit of a 47638
provider. 47639

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program;

(6) The provider agreement is terminated or not renewed

because the provider has not billed or otherwise submitted a
medicaid claim to the department for two years or longer, and the
department has determined that the provider has moved from the
address on record with the department without leaving an active
forwarding address with the department.

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In the case of a provider described in division (D)(6) of
this section, the department may terminate or not renew the
provider agreement by sending a notice explaining the department's
proposed action to the address on record with the department. The
notice may be sent by regular mail.

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(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

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Sec. 5111.061. (A) The department of job and family services may recover, at any time, a medicaid payment or portion of a payment made to a provider to which the provider is not entitled. Among the overpayments that may be recovered under this section are the following:

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(1) Payment for a service, or a day of service, not rendered;

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(2) Payment for a day of service at a full per diem rate that

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should have been paid at a percentage of the full per diem rate; 47700

(3) Payment of a service, or day of service, that was paid 47701
by, or partially paid by, a third-party, as defined in section 47702
5101.571 of the Revised Code, and the third-party's payment or 47703
partial payment was not offset against the amount paid by the 47704
medicaid program to reduce or eliminate the amount that was paid 47705
by the medicaid program; 47706

(4) Payment when a medicaid recipient's responsibility for 47707
payment was understated and resulted in an overpayment to the 47708
provider. 47709

(B) The department is authorized to recover overpayments 47710
under this section prior to or after any of the following: 47711

(1) Adjudication of a final fiscal audit that section 5111.06 47712
of the Revised Code requires to be conducted in accordance with 47713
Chapter 119. of the Revised Code; 47714

(2) Adjudication of a finding under any other provision of 47715
this chapter or the rules adopted under it; 47716

(3) Expiration of the time to issue a final fiscal audit that 47717
section 5111.06 of the Revised Code requires to be conducted in 47718
accordance with Chapter 119. of the Revised Code; 47719

(4) Expiration of the time to issue a finding under any other 47720
provision of this chapter or the rules adopted under it. 47721

(C)(1) Subject to division (C)(2) of this section, the 47722
recovery of an overpayment under this section does not preclude 47723
the department from subsequently doing the following: 47724

(a) Issuing a final fiscal audit in accordance with Chapter 47725
119. of the Revised Code, as required under section 5111.06 of the 47726
Revised Code; 47727

(b) Issuing a finding under any other provision of this 47728
chapter or the rules adopted under it. 47729

(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. 47730
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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. 47733
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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. 47736
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Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. The department may receive a supplemental rebate negotiated under the program for a drug dispensed to a medicaid recipient pursuant to a prescription or a drug purchased by a medicaid provider for administration to a medicaid recipient in the provider's primary place of business. If necessary, the director may apply to the United States secretary 47748
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of health and human services for a waiver of federal statutes and 47760
regulations to establish the supplemental drug rebate program. 47761

If the director establishes a supplemental drug rebate 47762
program, the director shall consult with drug manufacturers 47763
regarding the establishment and implementation of the program. 47764

~~If the director establishes a supplemental drug rebate 47765
program, the director shall exempt from the program all of a drug 47766
manufacturer's drug products that have been approved by the United 47767
States food and drug administration for the treatment of either of 47768
the following: 47769~~

~~(A) Mental illness, as defined in section 5122.01 of the 47770
Revised Code, including schizophrenia, major depressive disorder, 47771
and bipolar disorder; 47772~~

~~(B) HIV or AIDS, both as defined in section 3701.24 of the 47773
Revised Code. 47774~~

Sec. 5111.083. (A) As used in this section: 47775

(1) "Control number" means the number assigned to a 47776
prescription drug by the drug's manufacturer. 47777

(2) "State maximum allowable cost" means the per unit amount 47778
the department of job and family services reimburses a terminal 47779
distributor of dangerous drugs for a prescription drug included in 47780
the state maximum allowable cost program established under 47781
division (B) of this section. "State maximum allowable cost" 47782
excludes dispensing fees and copayments, coinsurance, or other 47783
cost-sharing charges, if any. 47784

(3) "Terminal distributor of dangerous drugs" has the same 47785
meaning as in section 4729.01 of the Revised Code. 47786

(B) The director of job and family services shall establish a 47787
state maximum allowable cost program for purposes of managing 47788

reimbursement to terminal distributors of dangerous drugs for 47789
prescription drugs identified by the director pursuant to this 47790
division. The director shall do all of the following with respect 47791
to the program: 47792

(1) Identify and create a list of prescription drugs to be 47793
included in the program. The list shall, at a minimum, include the 47794
name and control number for each drug. 47795

(2) Update the list of prescription drugs described in 47796
division (B)(1) of this section on a weekly basis. 47797

(3) Update the state maximum allowable cost for each drug 47798
included on the list described in division (B)(1) of this section 47799
on a weekly basis. 47800

(C) The director may adopt rules in accordance with Chapter 47801
119. of the Revised Code to implement this section. 47802

Sec. 5111.084. (A) As used in this section, "licensed health 47803
professional authorized to prescribe drugs" has the same meaning 47804
as in section 4729.01 of the Revised Code. 47805

(B) The director of job and family services may establish an 47806
e-prescribing system for the medicaid program under which a 47807
medicaid provider who is a licensed health professional authorized 47808
to prescribe drugs shall use an electronic system to prescribe a 47809
drug for a medicaid recipient when required to do so by division 47810
(C) of this section. The e-prescribing system shall eliminate the 47811
need for such medicaid providers to make prescriptions for 47812
medicaid recipients by handwriting or telephone. The e-prescribing 47813
system also shall provide such medicaid providers with an 47814
up-to-date, clinically relevant drug information database and a 47815
system of electronically monitoring medicaid recipients' medical 47816
history, drug regimen compliance, and fraud and abuse. 47817

(C) If the director establishes an e-prescribing system under 47818

division (B) of this section, the director shall do all of the 47819
following: 47820

(1) Require that a medicaid provider who is a licensed health 47821
professional authorized to prescribe drugs use the e-prescribing 47822
system during a fiscal year if the medicaid provider was one of 47823
the ten medicaid providers who, during the calendar year that 47824
precedes that fiscal year, issued the most prescriptions for 47825
medicaid recipients receiving hospital services; 47826

(2) Before the beginning of each fiscal year, determine the 47827
ten medicaid providers that issued the most prescriptions for 47828
medicaid recipients receiving hospital services during the 47829
calendar year that precedes the upcoming fiscal year and notify 47830
those medicaid providers that they must use the e-prescribing 47831
system for the upcoming fiscal year; 47832

(3) Seek the most federal financial participation available 47833
for the development and implementation of the e-prescribing 47834
system. 47835

Sec. ~~5111.81~~ 5111.085. (A) There is hereby established the 47836
pharmacy and therapeutics committee of the department of job and 47837
family services for the purpose of developing and recommending to 47838
the department a preferred drug formulary to be used under the 47839
medicaid program, including specifying how drug classes are to be 47840
defined and which drug classes are to be included in the preferred 47841
drug formulary. The 47842

The committee shall consist of ~~eight~~ nine members and shall 47843
be appointed by the director of job and family services. The 47844
membership of the committee shall include: ~~two~~ three pharmacists 47845
licensed under Chapter 4729. of the Revised Code and actively 47846
practicing in Ohio; two doctors of medicine and two doctors of 47847
osteopathy licensed under Chapter 4731. of the Revised Code and 47848

actively practicing in Ohio; a registered nurse licensed under 47849
Chapter 4723. of the Revised Code and actively practicing in Ohio; 47850
and a pharmacologist who has a doctoral degree. ~~The~~ 47851

The director of job and family services shall ensure that at 47852
least five members of the committee represent prescribing 47853
providers and dispensing pharmacies that participate in the 47854
medicaid program, serve all medicaid recipient populations, and 47855
have experience in developing or practicing under a preferred drug 47856
formulary. 47857

(B) No member of the committee shall be employed by, contract 47858
with, or receive compensation from a pharmaceutical manufacturer 47859
during the member's term. The director shall remove any member of 47860
the committee who violates this prohibition. 47861

No person may serve on the committee if that person has been 47862
employed by, has contracted with, or has received compensation or 47863
benefits from a pharmaceutical manufacturer or a pharmacy benefits 47864
manager, other than pharmaceutical samples with a value not 47865
greater than one hundred dollars per calendar quarter, in the two 47866
years prior to the person's appointment to the committee. 47867

(C) The committee shall annually elect one of its members as 47868
chairperson. 47869

The committee shall do the following: 47870

(1) Meet at least once every ninety days, or more often as 47871
determined by the committee; 47872

(2) Provide public notice of its meetings and allow public 47873
comment at the meetings; 47874

(3) Determine which documents used by the committee are 47875
public records subject to section 149.43 of the Revised Code and 47876
which documents are protected as proprietary information of the 47877
pharmaceutical manufacturer, notwithstanding section 149.43 of the 47878

<u>Revised Code;</u>	47879
<u>(4) Consider joining the Oregon drug effectiveness review project not later than January 1, 2006;</u>	47880 47881
<u>(5) Consider using the United States veterans' administration or MEDCO drug formulary as a base for the preferred drug formulary.</u>	47882 47883 47884
<u>(D) The department may hire or retain contractors, sub-contractors, advisors, consultants, or agents to obtain evidence-based evaluations of the comparative efficacy, safety, and cost-effectiveness of drugs within drug classes that will assist the committee in making recommendations about the inclusion or exclusion of drugs on the preferred drug formulary. The department shall follow all state procurement requirements for any procurements made under this division, and provide reasonable public notice and opportunities for public comment.</u>	47885 47886 47887 47888 47889 47890 47891 47892 47893
<u>Sec. 5111.10. The director of job and family services may conduct reviews of the medicaid program. The reviews may include physical inspections of records and sites where medicaid-funded services are provided and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing the medicaid program, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules governing the medicaid program. Such action to be taken against a responsible entity, as defined in section 5101.24 of the Revised Code, shall be taken in accordance with that section.</u>	47894 47895 47896 47897 47898 47899 47900 47901 47902 47903 47904 47905
<u>Sec. 5111.11. (A) As used in this section, "estate" means all and section 5111.111 of the Revised Code:</u>	47906 47907
<u>(1) "Estate" includes both of the following:</u>	47908

(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; 47909
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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. 47913
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(2) "Institution" means a nursing facility, intermediate care facility for the mentally retarded, or a medical institution. 47919
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(3) "Institutionalized individual" means an individual to whom all of the following apply: 47921
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(a) Is an inpatient in an institution; 47923

(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; 47924
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(c) Cannot reasonably be expected to be discharged from the institution and return home. 47929
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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. 47931
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(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death. 47934
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~~(B) For the purpose of recovering the cost of services correctly paid under the medical assistance program to a recipient age fifty five or older, the The department of job and family services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of a program of that nature. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty one or blind or permanently and totally disabled.~~

~~The department may enter into a contract with any person under which the person administers the estate recovery program on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person to be compensated from the property recovered from the estates of medical assistance recipients or may provide for another manner of compensation agreed to by the person and the department. Regardless of whether it is administered by the department or a person under contract with the department, the program shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.~~

~~(C) under which the department shall, except as provided in divisions (C) and (D) of this section, do both of the following:~~

~~(1) For the costs of services the medicaid program correctly pays on behalf of an institutionalized individual of any age, seek adjustment or recovery from the individual's estate or on the sale of property of the individual or spouse that is subject to a lien imposed under section 5111.111 of the Revised Code;~~

~~(2) For the costs of services the medicaid program correctly~~

pays on behalf of an individual fifty-five years of age or older 47970
who is not an institutionalized individual, seek adjustment or 47971
recovery from the individual's estate. 47972

(C)(1) No adjustment or recovery may be made under division 47973
(B)(1) of this section from an institutionalized individual's 47974
estate or on the sale of property of an institutionalized 47975
individual that is subject to a lien imposed under section 47976
5111.111 of the Revised Code or under division (B)(2) of this 47977
section from an individual's estate while either of the following 47978
are alive: 47979

(a) The spouse of the institutionalized individual or 47980
individual; 47981

(b) The son or daughter of an institutionalized individual or 47982
individual if the son or daughter is under age twenty-one or, 47983
under 42 U.S.C. 1382c, is considered blind or disabled. 47984

(2) No adjustment or recovery may be made under division 47985
(B)(1) of this section from an institutionalized individual's home 47986
that is subject to a lien imposed under section 5111.111 of the 47987
Revised Code while either of the following lawfully reside in the 47988
home: 47989

(a) The institutionalized individual's sibling who resided in 47990
the home for at least one year immediately before the date of the 47991
institutionalized individual's admission to the institution and on 47992
a continuous basis since that time; 47993

(b) The institutionalized individual's son or daughter who 47994
provided care to the institutionalized individual that delayed the 47995
institutionalized individual's institutionalization and resided in 47996
the home for at least two years immediately before the date of the 47997
institutionalized individual's admission to the institution and on 47998
a continuous basis since that time. 47999

(D) The department ~~may~~ shall waive seeking an adjustment or recovery of medical assistance correctly paid otherwise required by this section if the director of job and family services determines, on the basis of criteria established by the United States secretary of health and human services under 42 U.S.C. 1396p (b)(3), as amended, that adjustment or recovery would work an undue hardship. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules establishing procedures for waiver of adjustment or recovery due to an undue hardship, which shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended.

~~(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that section, pursuant to a contract with the department.~~

(E) For the purpose of determining whether an individual meets the definition of "institutionalized individual" established for this section, a rebuttable presumption exists that the individual cannot reasonably be expected to be discharged from an institution and return home if either of the following is the case:

(1) The individual declares that he or she does not intend to return home;

(2) The individual has been an inpatient in an institution for at least six months without a discharge plan.

~~**Sec. 5111.111.** As used in this section, "home and community based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.~~

The (A) Except as provided in division (B) of this section 48030
and section 5111.12 of the Revised Code, no lien may be imposed 48031
against the property of an individual before the individual's 48032
death on account of medicaid paid or to be paid on the 48033
individual's behalf. 48034

(B) Except as provided in division (C) of this section, the 48035
department of job and family services may ~~place~~ impose a lien 48036
against the real property of a ~~medical assistance~~ medicaid 48037
recipient ~~or~~ who is an institutionalized individual and against 48038
the real property of the recipient's spouse, other than a 48039
~~recipient or spouse of a recipient of home and community based~~ 48040
~~services, that the department may recover as part of the program~~ 48041
~~instituted under section 5111.11 of the Revised Code~~ including any 48042
real property that is jointly held by the recipient and spouse. 48043
~~When medical assistance is paid on behalf of any person in~~ 48044
~~circumstances under which federal law and regulations and this~~ 48045
~~section permit the imposition of a lien, the~~ The lien may be 48046
imposed on account of medicaid paid or to be paid on the 48047
recipient's behalf. 48048

(C) No lien may be imposed under division (B) of this section 48049
against the home of a medicaid recipient if any of the following 48050
lawfully resides in the home: 48051

(1) The recipient's spouse; 48052

(2) The recipient's son or daughter who is under twenty-one 48053
years of age or, under 42 U.S.C. 1382c, considered to be blind or 48054
disabled; 48055

(3) The recipient's sibling who has an equity interest in the 48056
home and resided in the home for at least one year immediately 48057
before the date of the recipient's admission to the institution. 48058

(D) The director of job and family services or a person 48059
designated by the director ~~may~~ shall sign a certificate to ~~the~~ 48060

~~effect~~ effectuate a lien required to be imposed under this 48061
section. The county department of job and family services shall 48062
file for recording and indexing the certificate, or a certified 48063
copy, in the real estate mortgage records in the office of the 48064
county recorder in every county in which real property of the 48065
recipient or spouse is situated. From the time of filing the 48066
certificate in the office of the county recorder, the lien 48067
attaches to all real property of the recipient or spouse described 48068
~~therein in the certificate~~ for all amounts ~~of aid which are paid~~ 48069
~~or which thereafter are paid,~~ for which adjustment or recovery may 48070
be made under section 5111.11 of the Revised Code and, except as 48071
provided in division (E) of this section, shall remain a lien 48072
until satisfied. 48073

Upon filing the certificate in the office of the recorder, 48074
all persons are charged with notice of the lien and the rights of 48075
the department of job and family services thereunder. 48076

The county recorder shall keep a record of every certificate 48077
filed showing its date, the time of filing, the name and residence 48078
of the recipient or spouse, and any release, waivers, or 48079
satisfaction of the lien. 48080

The priority of the lien shall be established in accordance 48081
with state and federal law. 48082

The department may waive the priority of its lien to provide 48083
for the costs of the last illness as determined by the department, 48084
administration, attorney fees, administrator fees, a sum for the 48085
payment of the costs of burial, which shall be computed by 48086
deducting from five hundred dollars whatever amount is available 48087
for the same purpose from all other sources, and a similar sum for 48088
the spouse of the decedent. 48089

(E) A lien imposed with respect to a medicaid recipient under 48090
this section shall dissolve on the recipient's discharge from the 48091

institution and return home.

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Sec. 5111.112. The department of job and family services may enter into a contract with any person or government entity under which the person or government entity administers the estate recovery program instituted under section 5111.11 of the Revised Code on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person or government entity to be compensated from the property recovered under the program or may provide for another manner of compensation agreed to by the person or government entity and the department. Regardless of whether it is administered by the department or a person or government entity under contract with the department, the program shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.

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Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person or government entity administering the program, or performing actions specified in that section, pursuant to a contract with the department.

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Sec. ~~5111.112~~ 5111.113. (A) As used in this section:

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(1) "Adult care facility" has the same meaning as in section 3722.01 of the Revised Code.

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(2) "Commissioner" means a person appointed by a probate court under division (B) of section 2113.03 of the Revised Code to act as a commissioner.

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(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

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(4) "Personal needs allowance account" means an account or

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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.

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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.

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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.

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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
personal needs allowance account to the administrator, executor,
commissioner, or person who filed the application for release from
administration.

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(E) The transfer or use of money in a resident's personal 48152
needs allowance account in accordance with division (B), (C), or 48153
(D) of this section discharges and releases the adult care 48154
facility or home, and the owner or operator of the facility or 48155
home, from any claim for the money from any source. 48156

(F) If, sixty-one or more days after a resident of an adult 48157
care facility or home dies, letters testamentary or letters of 48158
administration are issued, or an application for release from 48159
administration under section 2113.03 of the Revised Code is filed, 48160
concerning the resident's estate, the department of job and family 48161
services shall transfer the funds to the administrator, executor, 48162
commissioner, or person who filed the application, unless the 48163
department is entitled to recover the money under the estate 48164
recovery program instituted under section 5111.11 of the Revised 48165
Code. 48166

Sec. ~~5111.113~~ 5111.114. As used in this section, "nursing 48167
facility" and "intermediate care facility for the ~~mental~~ mentally 48168
retarded" have the same meanings as in section 5111.20 of the 48169
Revised Code. 48170

In determining the amount of income that a recipient of 48171
medical assistance must apply monthly toward payment of the cost 48172
of care in a nursing facility or intermediate care facility for 48173
the mentally retarded, the county department of job and family 48174
services shall deduct from the recipient's monthly income a 48175
monthly personal needs allowance in accordance with section 1902 48176
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 48177
1396a, as amended. 48178

For a resident of a nursing facility, the monthly personal 48179
needs allowance shall be not less than forty dollars for an 48180
individual resident and not less than eighty dollars for a married 48181
couple if both spouses are residents of a nursing facility. 48182

For a resident of an intermediate care facility for the 48183
mentally retarded, the monthly personal needs allowance shall be 48184
forty dollars unless the resident has earned income, in which case 48185
the monthly personal needs allowance shall be determined by the 48186
state department of job and family services but shall not exceed 48187
one hundred five dollars. 48188

Sec. 5111.16. (A) As part of the medicaid program, the 48189
department of job and family services shall establish a care 48190
management system. The department shall submit, if necessary, 48191
applications to the United States department of health and human 48192
services for waivers of federal medicaid requirements that would 48193
otherwise be violated in the implementation of the system. 48194

(B) The department shall implement the care management system 48195
in some or all counties and shall designate the medicaid 48196
recipients who are required or permitted to participate in the 48197
system. In implementing the care management system and designating 48198
participants, both of the following apply: 48199

(1) The department shall designate for participation in the 48200
care management system all individuals who receive medicaid on the 48201
basis of being included in the category identified by the 48202
department as covered families and children. The system shall be 48203
implemented in all counties and the participants shall be required 48204
to enroll in health insuring corporations under contract with the 48205
department pursuant to section 5111.17 of the Revised Code. 48206

(2) Alcohol, drug addiction, and mental health services 48207
covered by medicaid pursuant to the option under federal law of 48208
covering rehabilitative services shall not be included in any 48209
component of the care management system, but recipients of the 48210
services may be designated as participants in the system for 48211
purposes of obtaining other services covered by medicaid. 48212

~~(B) Under the care management system~~ (C) Subject to divisions 48213
(B)(1) and (2) of this section, the department may do both of the 48214
following under the care management system: 48215

(1) Require or permit participants in the system to obtain 48216
health care services from providers designated by the department; 48217

(2) ~~require~~ Require or permit participants in the system to 48218
obtain health care services through managed care organizations 48219
under contract with the department pursuant to section 5111.17 of 48220
the Revised Code. 48221

~~(C)~~(D) The department shall prepare an annual report on the 48222
department's implementation of the care management system. The 48223
report shall address the department's ability to implement the 48224
care management system, including the required participation of 48225
the medicaid recipients specified in division (B)(2) of this 48226
section, the pilot programs established under sections 5111.163 to 48227
5111.165 of the Revised Code, and any enhanced care management 48228
component of the system. 48229

The department shall submit each annual report to the general 48230
assembly. The first report shall be submitted not later than 48231
October 1, 2007. 48232

(E) The director of job and family services may adopt rules 48233
in accordance with Chapter 119. of the Revised Code to implement 48234
this section. 48235

Sec. 5111.161. (A) There is hereby created the medicaid care 48236
management working group, consisting of the following members: 48237

(1) Three individuals representing medicaid care management, 48238
one appointed by the president of the senate, one appointed by the 48239
speaker of the house of representatives, and one appointed by the 48240
governor; 48241

(2) Four individuals representing health care professional 48242

<u>and trade associations, appointed as follows:</u>	48243
<u>(a) One representative of the American academy of pediatrics,</u>	48244
<u>appointed by the president of the senate;</u>	48245
<u>(b) One representative of the American academy of family</u>	48246
<u>physicians, appointed by the speaker of the house of</u>	48247
<u>representatives;</u>	48248
<u>(c) One representative of the Ohio state medical association,</u>	48249
<u>appointed by the president of the senate;</u>	48250
<u>(d) One representative of the Ohio hospital association,</u>	48251
<u>appointed by the speaker of the house of representatives.</u>	48252
<u>(3) One individual representing behavioral health</u>	48253
<u>professional and trade associations, appointed by the speaker of</u>	48254
<u>the house of representatives;</u>	48255
<u>(4) Two individuals representing consumer advocates, one</u>	48256
<u>appointed by the president of the senate and one appointed by the</u>	48257
<u>speaker of the house of representatives;</u>	48258
<u>(5) One individual representing county departments of job and</u>	48259
<u>family services, appointed by the president of the senate;</u>	48260
<u>(6) Three individuals representing the business community,</u>	48261
<u>one appointed by the president of the senate, one appointed by the</u>	48262
<u>speaker of the house of representatives, and one appointed by the</u>	48263
<u>governor;</u>	48264
<u>(7) The director of job and family services or the director's</u>	48265
<u>designee;</u>	48266
<u>(8) The director of health or the director's designee.</u>	48267
<u>(B) The members of the working group shall serve at the</u>	48268
<u>pleasure of their appointing authorities. Vacancies shall be</u>	48269
<u>filled in the manner provided for original appointments.</u>	48270
<u>(C) The working group shall develop guidelines to be followed</u>	48271

by the department of job and family services when entering into 48272
contracts under section 5111.17 of the Revised Code with managed 48273
care organizations for purposes of the care management system 48274
established under section 5111.16 of the Revised Code. The working 48275
group shall consult regularly with the departments of insurance, 48276
aging, alcohol and drug addiction services, mental health, and 48277
mental retardation and developmental disabilities and the 48278
rehabilitation services commission. 48279

In developing the guidelines for managed care contracts, the 48280
working group shall do all of the following: 48281

(1) Examine the best practice standards used in managed care 48282
programs and other health care and related systems to maximize 48283
patient and provider satisfaction, maintain quality of care, and 48284
obtain cost-effectiveness; 48285

(2) Consider the most effective means of facilitating the 48286
expansion of the care management system and increasing consistency 48287
within the system; 48288

(3) Make recommendations for coordinating the regulatory 48289
relationships involved in the medicaid care management system; 48290

(4) Make recommendations for improving the resolution of 48291
contracting issues among the providers involved in the care 48292
management system; 48293

(5) Make recommendations to the department of job and family 48294
services for creating the financial incentive program under 48295
division (B) of section 5111.17 of the Revised Code to improve and 48296
reward positive health outcomes through care management contracts. 48297
In making these recommendations, the working group shall include 48298
all of the following: 48299

(a) Standards and procedures by which care management 48300
contractors may receive financial incentives for positive health 48301

outcomes measured on an individual basis; 48302

(b) Specific measures of positive health outcomes, 48303
particularly among individuals with high-risk health conditions; 48304

(c) Criteria for determining what constitutes a completed 48305
health outcome; 48306

(d) Methods of funding the program without requiring an 48307
increase in appropriations. 48308

(D) The working group shall prepare an annual report on its 48309
activities and shall submit the report to the president of the 48310
senate, speaker of the house of representatives, and governor. The 48311
report shall include any findings and recommendations the working 48312
group considers relevant to its duties. The working group shall 48313
complete an initial report not later than December 31, 2005. Each 48314
year thereafter, the working group shall complete its annual 48315
report by the last day of December. 48316

Sec. 5111.162. (A) As used in this section, "provider" has 48317
the same meaning as in section 5111.06 of the Revised Code. 48318

(B)(1) In the case of a provider that is a hospital, the 48319
hospital shall provide hospital services to a medicaid recipient 48320
designated by the department of job and family services under 48321
section 5111.16 of the Revised Code for mandatory enrollment in a 48322
managed care organization, regardless of whether the hospital has 48323
contracted with the managed care organization in which the 48324
medicaid recipient is enrolled. When the managed care organization 48325
has authorized the provision of hospital services to the medicaid 48326
recipient, a noncontracting hospital shall accept as payment in 48327
full the reimbursement provided by the managed care organization 48328
pursuant to division (B)(2) of this section. 48329

(2) A managed care organization that contracts with the 48330
department under section 5111.17 of the Revised Code shall 48331

reimburse a hospital for providing services pursuant to division (B)(1) of this section according to the same reimbursement rate that is used by the department to reimburse the hospital for providing services to medicaid recipients who are not enrolled in a managed care organization. The reimbursement rate applies only to services authorized by the managed care organization and does not restrict the managed care organization from entering into a contract with a hospital under which the hospital is reimbursed at a different rate. 48332
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(C) On and after July 1, 2008, if the department determines that provider participation in the pilot programs established under sections 5111.163 and 5111.164 of the Revised Code is insufficient for the pilot programs to be implemented appropriately, all of the following apply: 48341
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(1) If the department has designated medicaid recipients for mandatory enrollment in managed care organizations in the county where a provider is located or in the surrounding counties served by the provider, the provider shall contract with all managed care organizations in which the medicaid recipients are enrolled. 48346
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(2) When entering into a contract pursuant to division (C)(1) of this section, the provider shall agree to provide services to the medicaid recipients who are enrolled in the managed care organization. 48351
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(3) The department shall terminate the medicaid provider agreement of any provider that refuses to comply with division (C)(1) of this section. 48355
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(D) The director of job and family services may adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 48358
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Sec. 5111.163. (A) The department of job and family services 48361

shall develop a care management pilot program under which 48362
individuals designated by the department who receive medicaid on 48363
the basis of being aged, blind, or disabled, as specified in 48364
division (A)(2) of section 5111.01 of the Revised Code, are 48365
required to enroll in and obtain medicaid-covered health care 48366
services through the care management system established under 48367
section 5111.16 of the Revised Code. The department shall 48368
implement the pilot program not later than July 1, 2006. 48369

(B) Unless the department receives the necessary waivers of 48370
federal medicaid requirements, the department shall not designate 48371
individuals for participation in the pilot program if they are 48372
included in one or more of the medicaid recipient groups specified 48373
in 42 C.F.R. 438.50(d). The department may exclude from 48374
participation some or all individuals who are included in one or 48375
more of the following groups of medicaid recipients: 48376

(1) Individuals who are under twenty-one years of age; 48377

(2) Individuals who are institutionalized; 48378

(3) Individuals who become eligible for medicaid by spending 48379
down their income or resources to a level that meets the medicaid 48380
program's financial eligibility requirements; 48381

(4) Individuals who are dually eligible under the medicaid 48382
program and the medicare program established under Title XVIII of 48383
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 48384
amended; 48385

(5) Individuals to the extent that they are receiving 48386
medicaid services through a medicaid waiver component, as defined 48387
in section 5111.85 of the Revised Code. 48388

(C) When entering into contracts under section 5111.17 of the 48389
Revised Code to implement the pilot program, the department shall 48390
contract only with managed care organizations that are health 48391

insuring corporations. 48392

(D) The department may cease operation of the pilot program 48393
if the department determines any of the following: 48394

(1) That requiring the individuals designated for 48395
participation in the pilot program is not a cost-effective means 48396
of providing medicaid services to the individuals; 48397

(2) That the department has sufficient information to 48398
evaluate the pilot program's effectiveness; 48399

(3) That any other reason exists to justify the pilot 48400
program's termination. 48401

(E) The department shall conduct an evaluation of the pilot 48402
program's effectiveness. 48403

(F) The department may adopt any rules it considers necessary 48404
to implement this section. The rules shall be adopted in 48405
accordance with Chapter 119. of the Revised Code. 48406

Sec. 5111.164. (A) The department of job and family services 48407
shall develop a care management pilot program for long-term care 48408
under which individuals designated by the department who receive 48409
medicaid on the basis of being aged, blind, or disabled, as 48410
specified in division (A)(2) of section 5111.01 of the Revised 48411
Code, are required to enroll in and obtain medicaid-covered health 48412
care services through the care management system established under 48413
section 5111.16 of the Revised Code. The department shall 48414
implement the pilot program not later than July 1, 2006. 48415

(B) Unless the department receives the necessary waivers of 48416
federal medicaid requirements, the department shall not designate 48417
an individual for participation in the pilot program if the 48418
individual is included in one or more of the medicaid recipient 48419
groups specified in 42 C.F.R. 438.50(d). To be designated for 48420
participation, an individual shall meet both of the following 48421

<u>conditions:</u>	48422
<u>(1) Be fifty-five years of age or older;</u>	48423
<u>(2) Require the level of care provided by a nursing facility,</u> <u>as defined in section 5111.20 of the Revised Code.</u>	48424 48425
<u>(C) When entering into contracts under section 5111.17 of the</u> <u>Revised Code to implement the pilot program, the department may</u> <u>include provisions that permit a managed care organization to pay</u> <u>nursing facilities according to rates that differ from the rates</u> <u>the department uses to reimburse nursing facilities for their</u> <u>services.</u>	48426 48427 48428 48429 48430 48431
<u>(D) The department may cease operation of the pilot program</u> <u>if the department determines any of the following:</u>	48432 48433
<u>(1) That requiring the individuals designated for</u> <u>participation in the pilot program is not a cost-effective means</u> <u>of providing medicaid services to the individuals;</u>	48434 48435 48436
<u>(2) That the department has sufficient information to</u> <u>evaluate the pilot program's effectiveness;</u>	48437 48438
<u>(3) That any other reason exists to justify the pilot</u> <u>program's termination.</u>	48439 48440
<u>(E) The department shall conduct an evaluation of the pilot</u> <u>program's effectiveness.</u>	48441 48442
<u>(F) The department may adopt any rules it considers necessary</u> <u>to implement this section. The rules shall be adopted in</u> <u>accordance with Chapter 119. of the Revised Code.</u>	48443 48444 48445
<u>Sec. 5111.165. (A) As used in this section, "chronically ill</u> <u>child" means an individual who is not more than twenty-one years</u> <u>of age and meets the conditions specified in division (A)(2) of</u> <u>section 5111.01 of the Revised Code to be eligible for medicaid on</u> <u>the basis of being blind or disabled.</u>	48446 48447 48448 48449 48450

(B) Notwithstanding any conflicting provision of section 5111.163 of the Revised Code, the department of job and family services shall develop a pilot program for the care management of chronically ill children in accordance with this section. The pilot program shall be implemented not later than October 1, 2006, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2008, except that the department shall cease operation of the program before that date if either of the following is the case:

(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services.

(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars.

(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.

(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:

(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. 48482
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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. 48492
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(3) The care coordinator shall establish a relationship of mutual responsibility with the child's parents or other persons who are responsible for the child. Under this relationship, the care coordinator shall commit to developing a long-term disease prevention strategy and providing disease management and education services, while the child's parents or other persons who are responsible for the child shall commit to participating fully in implementing the child's care management plan. 48495
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(4) The medicaid program shall provide reimbursement for the reasonable and necessary costs of the services associated with care coordination, including, but not limited to, case management, care plan oversight, preventive care, health and behavioral care assessment and intervention, and any service modifier that reflects the provision of prolonged services or additional care. 48503
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(E) The department shall conduct an evaluation of the pilot program's effectiveness. As part of the evaluation, the department shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the 48509
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department considers necessary to conduct the evaluation. 48513

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program. 48514
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Sec. 5111.17. (A) The department of job and family services may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section 5111.16 of the Revised Code. 48519
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(B) The department shall develop and implement a financial incentive program to improve and reward positive health outcomes through the managed care organization contracts entered into under this section. The department shall base the program on the recommendations made by the medicaid care management working group created under section 5111.161 of the Revised Code. 48528
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(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. 48534
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Sec. 5111.176. (A) As used in this section: 48537

(1) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code. 48538
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(2) "Managed care premium" means any premium payment, capitation payment, or other payment a medicaid health insuring corporation receives for providing, or arranging for the provision of, health care services to its members or enrollees residing in this state. 48543
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(B) Except as provided in division (C) of this section, all of the following apply: 48548
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(1) Each medicaid health insuring corporation shall pay to the department of job and family services a franchise permit fee for each calendar quarter occurring between January 1, 2006, and June 30, 2007. 48550
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(2) The fee to be paid is an amount that is equal to a percentage of the managed care premiums the medicaid health insuring corporation received in the quarter to which the fee applies, excluding the amount of any managed care premiums the corporation returned or refunded to enrollees, members, or premium payers during that quarter. 48554
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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. 48560
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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: 48565
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(1) That the reduction or termination is required to comply with federal statutes or regulations; 48568
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(2) That the fee does not qualify as a state share of medicaid expenditures eligible for federal financial participation. 48570
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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. 48573
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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. 48581
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(F)(1) A medicaid health insuring corporation that does not pay the franchise permit fee in full by the date the payment is due is subject to any or all of the following: 48587
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(a) A monetary penalty in the amount of five hundred dollars for each day any part of the fee remains unpaid, except that the penalty shall not exceed an amount equal to five per cent of the total fee that was due for the calendar quarter for which the penalty is being imposed; 48590
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(b) Withholdings from future managed care premiums pursuant to division (G) of this section; 48595
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(c) Termination of the corporation's medicaid provider agreement pursuant to division (H) of this section. 48597
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(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee. 48599
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(G) If a medicaid health insuring corporation fails to pay 48602

the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing notice to the corporation. The amounts may be withheld until the amount due has been paid. 48603
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(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following: 48611
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(1) Fails to pay its franchise permit fee or fails to pay the fee promptly; 48615
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(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly; 48617
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(3) Fails to cooperate with an audit conducted under division (E) of this section. 48619
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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: 48621
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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. 48625
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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. 48628
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(J)(1) At the request of a medicaid corporation, the 48632

department shall grant the corporation a reconsideration of any 48633
issue that arises out of the provisions of this section and is not 48634
subject to division (I) of this section. The department's decision 48635
at the conclusion of the reconsideration is not subject to appeal 48636
under Chapter 119. of the Revised Code or any other provision of 48637
the Revised Code. 48638

(2) In conducting a reconsideration, the department shall do 48639
at least the following: 48640

(a) Specify the time frames within which a corporation must 48641
act in order to exercise its opportunity for a reconsideration; 48642

(b) Permit the corporation to present written arguments or 48643
other materials that support the corporation's position. 48644

(K) There is hereby created in the state treasury the managed 48645
care assessment fund. Money collected from the franchise permit 48646
fees and penalties imposed under this section shall be credited to 48647
the fund. The department shall use the money in the fund to pay 48648
for medicaid services, the department's administrative costs, and 48649
contracts with medicaid health insuring corporations. 48650

(L) The director of job and family services may adopt rules 48651
to implement and administer this section. The rules shall be 48652
adopted in accordance with Chapter 119. of the Revised Code. 48653

Sec. 5111.19. The director of job and family services shall 48654
adopt rules governing the calculation and payment of graduate 48655
medical education costs associated with services rendered to 48656
medicaid recipients of the medical assistance program after June 48657
30, 1994. The Subject to section 5111.191 of the Revised Code, the 48658
rules shall provide for reimbursement of graduate medical 48659
education costs associated with services rendered to ~~medical~~ 48660
~~assistance~~ medicaid recipients, including recipients enrolled in 48661
health insuring corporations a managed care organization under 48662

contract with the department under section 5111.17 of the Revised Code, that the department determines are allowable and reasonable. 48663
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If the department requires a ~~health insuring corporation~~ managed care organization to pay a provider for graduate medical 48665
education costs associated with the delivery of services to 48666
~~medical assistance medicaid~~ recipients enrolled in the ~~corporation~~ 48667
organization, the department shall include in its payment to the 48668
~~corporation~~ organization an amount sufficient for the ~~corporation~~ 48669
organization to pay such costs. If the department does not include 48670
in its payments to the ~~health insuring corporation~~ managed care 48671
organization amounts for graduate medical education costs of 48672
providers, all of the following apply: 48673
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(A) ~~The~~ Except as provided in section 5111.191 of the Revised Code, the department shall pay the provider for graduate medical 48675
education costs associated with the delivery of services to 48676
~~medical assistance medicaid~~ recipients enrolled in the ~~corporation~~ 48677
organization; 48678
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(B) No provider shall seek reimbursement from the ~~corporation~~ 48680
organization for such costs; 48681

(C) The ~~corporation~~ organization is not required to pay 48682
providers for such costs. 48683

Sec. 5111.191. (A) The department of job and family services 48684
may deny payment to a hospital for direct graduate medical 48685
education costs associated with the delivery of services to any 48686
medicaid recipient if the hospital refuses without good cause to 48687
contract with a managed care organization to which both of the 48688
following apply: 48689

(1) The managed care organization contracts with the 48690
department under section 5111.17 of the Revised Code to provide, 48691
or arrange for the provision of, health care services to medicaid 48692

recipients designated by the department under section 5111.16 of 48693
the Revised Code for mandatory enrollment in a managed care 48694
organization. 48695

(2) The managed care organization serves the area in which 48696
the hospital is located. 48697

(B) The director of job and family services shall specify in 48698
the rules adopted under section 5111.19 of the Revised Code what 48699
constitutes good cause for a hospital to refuse to contract with a 48700
managed care organization. 48701

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.33 48702
of the Revised Code: 48703

(A) "Allowable costs" are those costs determined by the 48704
department of job and family services to be reasonable and do not 48705
include fines paid under sections 5111.35 to 5111.61 and section 48706
5111.99 of the Revised Code. 48707

(B) "Ancillary and support costs" means all reasonable costs 48708
incurred by a nursing facility other than direct care costs or 48709
capital costs. "Ancillary and support costs" includes, but is not 48710
limited to, costs of activities, social services, pharmacy 48711
consultants, medical and habilitation records, program supplies, 48712
incontinence supplies, food, enterals, dietary supplies and 48713
personnel, laundry, housekeeping, security, administration, 48714
medical equipment, utilities, liability insurance, bookkeeping, 48715
purchasing department, human resources, communications, travel, 48716
dues, license fees, subscriptions, home office costs not otherwise 48717
allocated, legal services, accounting services, minor equipment, 48718
maintenance and repairs, help-wanted advertising, informational 48719
advertising, start-up costs, organizational expenses, other 48720
interest, property insurance, employee training and staff 48721
development, employee benefits, payroll taxes, and workers' 48722

compensation premiums or costs for self-insurance claims and 48723
related costs as specified in rules adopted by the director of job 48724
and family services under section 5111.02 of the Revised Code, for 48725
personnel listed in this division. "Ancillary and support costs" 48726
also means the cost of equipment, including vehicles, acquired by 48727
operating lease executed before December 1, 1992, if the costs are 48728
reported as administrative and general costs on the facility's 48729
cost report for the cost reporting period ending December 31, 48730
1992. 48731

(C) "Capital costs" means costs of ownership and, in the case 48732
of an intermediate care facility for the mentally retarded, costs 48733
of nonextensive renovation. 48734

(1) "Cost of ownership" means the actual expense incurred for 48735
all of the following: 48736

(a) Depreciation and interest on any capital assets that cost 48737
five hundred dollars or more per item, including the following: 48738

(i) Buildings; 48739

(ii) Building improvements that are not approved as 48740
nonextensive renovations under section ~~5111.25~~ or 5111.251 of the 48741
Revised Code; 48742

(iii) ~~Equipment~~ Except as provided in division (B) of this 48743
section, equipment; 48744

(iv) ~~Extensive~~ In the case of an intermediate care facility 48745
for the mentally retarded, extensive renovations; 48746

(v) Transportation equipment. 48747

(b) Amortization and interest on land improvements and 48748
leasehold improvements; 48749

(c) Amortization of financing costs; 48750

(d) Except as provided in division ~~(I)~~(J) of this section, 48751
lease and rent of land, building, and equipment. 48752

The costs of capital assets of less than five hundred dollars per item may be considered capital costs ~~of ownership~~ in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

~~(C)~~(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

~~(D)~~(E) "Case-mix score" means the measure determined under section ~~5111.231~~ 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

~~(E)~~(F) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential

facility services, regardless of the date the present provider
obtained licensure. 48784
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(2) If a facility adds nursing home beds or residential
facility beds or extensively renovates all or part of the facility
after its original date of licensure, it will have a different
date of licensure for the additional beds or extensively renovated
portion of the facility, unless the beds are added in a space that
was constructed at the same time as the previously licensed beds
but was not licensed under Chapter 3721. or section 5123.19 of the
Revised Code at that time. 48786
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~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost
report submitted under section 5111.26 of the Revised Code have
been subjected to a desk review under division (A) of section
5111.27 of the Revised Code and preliminarily determined to be
allowable costs. 48794
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~~(G)~~(H) "Direct care costs" means all of the following: 48799

(1)(a) Costs for registered nurses, licensed practical
nurses, and nurse aides employed by the facility; 48800
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(b) Costs for direct care staff, administrative nursing
staff, medical directors, ~~social services staff, activities staff,~~
~~psychologists and psychology assistants, social workers and~~
~~counselors,~~ habilitation staff, qualified mental retardation
professionals, program directors, respiratory therapists,
habilitation supervisors, and except as provided in division
(G)(2) of this section, other persons holding degrees qualifying
them to provide therapy; 48802
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(c) Costs of purchased nursing services; 48810

(d) Costs of quality assurance; 48811

(e) Costs of training and staff development, employee
benefits, payroll taxes, and workers' compensation premiums or 48812
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costs for self-insurance claims and related costs as specified in 48814
rules adopted by the director of job and family services in 48815
accordance with Chapter 119. of the Revised Code, for personnel 48816
listed in divisions ~~(G)~~(H)(1)(a), (b), and (d) of this section; 48817

(f) Costs of consulting and management fees related to direct 48818
care; 48819

(g) Allocated direct care home office costs. 48820

(2) In addition to the costs specified in division (H)(1) of 48821
this section, for nursing facilities only, direct care costs 48822
include medical supplies, emergency oxygen, habilitation supplies, 48823
and universal precautions supplies. 48824

(3) In addition to the costs specified in division ~~(G)~~(H)(1) 48825
of this section, for intermediate care facilities for the mentally 48826
retarded only, direct care costs include both of the following: 48827

(a) Costs for physical therapists and physical therapy 48828
assistants, occupational therapists and occupational therapy 48829
assistants, speech therapists, ~~and~~ audiologists, social services 48830
staff, activities staff, psychologists and psychology assistants,
and social workers and counselors; 48831
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(b) Costs of training and staff development, employee 48833
benefits, payroll taxes, and workers' compensation premiums or 48834
costs for self-insurance claims and related costs as specified in 48835
rules adopted ~~by the director of job and family services in~~ 48836
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 48837
Code, for personnel listed in division ~~(G)~~(2)(H)(3)(a) of this 48838
section. 48839

~~(3)~~(4) Costs of other direct-care resources that are 48840
specified as direct care costs in rules adopted ~~by the director of~~ 48841
~~job and family services in accordance with Chapter 119.~~ under 48842
section 5111.02 of the Revised Code. 48843

~~(H)~~(I) "Fiscal year" means the fiscal year of this state, as 48844
specified in section 9.34 of the Revised Code. 48845

~~(I)~~(J) "Indirect care costs" means all reasonable costs 48846
incurred by an intermediate care facility for the mentally 48847
retarded other than direct care costs, other protected costs, or 48848
capital costs. "Indirect care costs" includes but is not limited 48849
to costs of habilitation supplies, pharmacy consultants, medical 48850
and habilitation records, program supplies, incontinence supplies, 48851
food, enterals, dietary supplies and personnel, laundry, 48852
housekeeping, security, administration, liability insurance, 48853
bookkeeping, purchasing department, human resources, 48854
communications, travel, dues, license fees, subscriptions, home 48855
office costs not otherwise allocated, legal services, accounting 48856
services, minor equipment, maintenance and repairs, help-wanted 48857
advertising, informational advertising, start-up costs, 48858
organizational expenses, other interest, property insurance, 48859
employee training and staff development, employee benefits, 48860
payroll taxes, and workers' compensation premiums or costs for 48861
self-insurance claims and related costs as specified in rules 48862
~~adopted by the director of job and family services in accordance~~ 48863
~~with Chapter 119. under section 5111.02 of the Revised Code, for~~ 48864
personnel listed in this division. Notwithstanding division 48865
~~(B)~~(C)(1) of this section, "indirect care costs" also means the 48866
cost of equipment, including vehicles, acquired by operating lease 48867
executed before December 1, 1992, if the costs are reported as 48868
administrative and general costs on the facility's cost report for 48869
the cost reporting period ending December 31, 1992. 48870

~~(J)~~(K) "Inpatient days" means all days during which a 48871
resident, regardless of payment source, occupies a bed in a 48872
nursing facility or intermediate care facility for the mentally 48873
retarded that is included in the facility's certified capacity 48874
under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 48875

42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days 48876
for which payment is made under section 5111.33 of the Revised 48877
Code are considered inpatient days proportionate to the percentage 48878
of the facility's per resident per day rate paid for those days. 48879

~~(K)~~(L) "Intermediate care facility for the mentally retarded" 48880
means an intermediate care facility for the mentally retarded 48881
certified as in compliance with applicable standards for the 48882
~~medical assistance~~ medicaid program by the director of health in 48883
accordance with Title XIX of the "Social Security Act." 48884

~~(I)~~(M) "Maintenance and repair expenses" means, except as 48885
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 48886
are necessary and proper to maintain an asset in a normally 48887
efficient working condition and that do not extend the useful life 48888
of the asset two years or more. "Maintenance and repair expenses" 48889
includes but is not limited to the cost of ordinary repairs such 48890
as painting and wallpapering. 48891

~~(M)~~(N) "Nursing facility" means a facility, or a distinct 48892
part of a facility, that is certified as a nursing facility by the 48893
director of health in accordance with Title XIX of the "Social 48894
Security Act," and is not an intermediate care facility for the 48895
mentally retarded. "Nursing facility" includes a facility, or a 48896
distinct part of a facility, that is certified as a nursing 48897
facility by the director of health in accordance with Title XIX of 48898
the "Social Security Act," and is certified as a skilled nursing 48899
facility by the director in accordance with Title XVIII of the 48900
"Social Security Act." 48901

~~(N)~~(O) "Operator" means the person or government entity 48902
responsible for the daily operating and management decisions for a 48903
nursing facility or intermediate care facility for the mentally 48904
retarded. 48905

(P) "Other protected costs" means costs incurred by an 48906

intermediate care facility for the mentally retarded for medical 48907
supplies; real estate, franchise, and property taxes; natural gas, 48908
fuel oil, water, electricity, sewage, and refuse and hazardous 48909
medical waste collection; allocated other protected home office 48910
costs; and any additional costs defined as other protected costs 48911
in rules adopted ~~by the director of job and family services in~~ 48912
~~accordance with Chapter 119. under section 5111.02~~ of the Revised 48913
Code. 48914

~~(O)~~(O) "Owner" means any person or government entity that has 48915
at least five per cent ownership or interest, either directly, 48916
indirectly, or in any combination, in a nursing facility or 48917
intermediate care facility for the mentally retarded. 48918

~~(P)~~(R) "Patient" includes "resident." 48919

~~(Q)~~(S) Except as provided in divisions ~~(Q)~~(S)(1) and (2) of 48920
this section, "per diem" means a nursing facility's or 48921
intermediate care facility for the mentally retarded's actual, 48922
allowable costs in a given cost center in a cost reporting period, 48923
divided by the facility's inpatient days for that cost reporting 48924
period. 48925

(1) When calculating indirect care costs for the purpose of 48926
establishing rates under section ~~5111.24~~ or 5111.241 of the 48927
Revised Code, "per diem" means ~~a facility's~~ an intermediate care 48928
facility for the mentally retarded's actual, allowable indirect 48929
care costs in a cost reporting period divided by the greater of 48930
the facility's inpatient days for that period or the number of 48931
inpatient days the facility would have had during that period if 48932
its occupancy rate had been eighty-five per cent. 48933

(2) When calculating capital costs for the purpose of 48934
establishing rates under section 5111.25 or 5111.251 of the 48935
Revised Code, "per diem" means a facility's actual, allowable 48936
capital costs in a cost reporting period divided by the greater of 48937

the facility's inpatient days for that period or the number of 48938
inpatient days the facility would have had during that period if 48939
its occupancy rate had been ninety-five per cent. For the purpose 48940
of determining a nursing facility's occupancy rate under division 48941
(S)(2) of this section, the department of job and family services 48942
shall include any beds that the nursing facility removes from its 48943
bed capacity under its Title XIX certification after June 30, 48944
2005, unless the nursing facility also removes the beds from its 48945
licensed bed capacity. 48946

~~(R)~~(T) "Provider" means a person or government entity that 48947
operates a nursing facility or intermediate care facility for the 48948
mentally retarded under a provider agreement. 48949

~~(S)~~(U) "Provider agreement" means a contract between the 48950
department of job and family services and the operator of a 48951
nursing facility or intermediate care facility for the mentally 48952
retarded for the provision of nursing facility services or 48953
intermediate care facility services for the mentally retarded 48954
under the ~~medical assistance~~ medicaid program. 48955

~~(T)~~ "~~Purchased nursing services~~" ~~means services that are~~ 48956
~~provided in a nursing facility by registered nurses, licensed~~ 48957
~~practical nurses, or nurse aides who are not employees of the~~ 48958
~~facility.~~ 48959

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 48960
is appropriate and helpful to develop and maintain the operation 48961
of patient care facilities and activities, including normal 48962
standby costs, and that does not exceed what a prudent buyer pays 48963
for a given item or services. Reasonable costs may vary from 48964
provider to provider and from time to time for the same provider. 48965

~~(V)~~(W) "Related party" means an individual or organization 48966
that, to a significant extent, has common ownership with, is 48967
associated or affiliated with, has control of, or is controlled 48968

by, the provider. 48969

(1) An individual who is a relative of an owner is a related party. 48970
48971

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property. 48972
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(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization. 48981
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(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met: 48984
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(a) The supplier is a separate bona fide organization. 48987

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes. 48988
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(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities. 48992
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(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the 48997
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charge made under comparable circumstances to others by the 48999
supplier. 49000

~~(W)~~(X) "Relative of owner" means an individual who is related 49001
to an owner of a nursing facility or intermediate care facility 49002
for the mentally retarded by one of the following relationships: 49003

(1) Spouse; 49004

(2) Natural parent, child, or sibling; 49005

(3) Adopted parent, child, or sibling; 49006

(4) ~~Step parent~~ Stepparent, ~~step child~~ stepchild, 49007
~~step brother~~ stepbrother, or ~~step sister~~ stepsister; 49008

(5) Father-in-law, mother-in-law, son-in-law, 49009
daughter-in-law, brother-in-law, or sister-in-law; 49010

(6) Grandparent or grandchild; 49011

(7) Foster caregiver, foster child, foster brother, or foster 49012
sister. 49013

~~(X)~~(Y) "Renovation" and "extensive renovation" mean: 49014

(1) Any betterment, improvement, or restoration of ~~a nursing~~ 49015
~~facility or an~~ intermediate care facility for the mentally 49016
retarded started before July 1, 1993, that meets the definition of 49017
a renovation or extensive renovation established in rules adopted 49018
by the director of job and family services in effect on December 49019
22, 1992. 49020

(2) In the case of betterments, improvements, and 49021
restorations of ~~nursing facilities and~~ intermediate care 49022
facilities for the mentally retarded started on or after July 1, 49023
1993: 49024

(a) "Renovation" means the betterment, improvement, or 49025
restoration of ~~a nursing facility or an~~ intermediate care facility 49026
for the mentally retarded beyond its current functional capacity 49027

through a structural change that costs at least five hundred 49028
dollars per bed. A renovation may include betterment, improvement, 49029
restoration, or replacement of assets that are affixed to the 49030
building and have a useful life of at least five years. A 49031
renovation may include costs that otherwise would be considered 49032
maintenance and repair expenses if they are an integral part of 49033
the structural change that makes up the renovation project. 49034
"Renovation" does not mean construction of additional space for 49035
beds that will be added to a facility's licensed or certified 49036
capacity. 49037

(b) "Extensive renovation" means a renovation that costs more 49038
than sixty-five per cent and no more than eighty-five per cent of 49039
the cost of constructing a new bed and that extends the useful 49040
life of the assets for at least ten years. 49041

For the purposes of division ~~(X)~~(Y)(2) of this section, the 49042
cost of constructing a new bed shall be considered to be forty 49043
thousand dollars, adjusted for the estimated rate of inflation 49044
from January 1, 1993, to the end of the calendar year during which 49045
the renovation is completed, using the consumer price index for 49046
shelter costs for all urban consumers for the north central 49047
region, as published by the United States bureau of labor 49048
statistics. 49049

The department of job and family services may treat a 49050
renovation that costs more than eighty-five per cent of the cost 49051
of constructing new beds as an extensive renovation if the 49052
department determines that the renovation is more prudent than 49053
construction of new beds. 49054

Sec. 5111.204. (A) As used in this section ~~and in section~~ 49055
~~5111.205 of the Revised Code~~, "representative" means a person 49056
acting on behalf of an applicant for or recipient of ~~medical~~ 49057
~~assistance~~ medicaid. A representative may be a family member, 49058

attorney, hospital social worker, or any other person chosen to 49059
act on behalf of an applicant or recipient. 49060

(B) The department of job and family services may require ~~an~~ 49061
each applicant for or recipient of ~~medical assistance~~ medicaid who 49062
applies or intends to apply for admission to a nursing facility or 49063
resides in a nursing facility to undergo an assessment to 49064
determine whether the applicant or recipient needs the level of 49065
care provided by a nursing facility. ~~To~~ The assessment may be 49066
performed concurrently with a long-term care consultation provided 49067
under section 173.42 of the Revised Code. 49068

To the maximum extent possible, the assessment shall be based 49069
on information from the resident assessment instrument specified 49070
in rules adopted by the director of job and family services under 49071
division ~~(A)(D)~~ of section ~~5111.231~~ 5111.232 of the Revised Code. 49072
The assessment shall also be based on criteria and procedures 49073
established in rules adopted under division ~~(H)~~ (F) of this section 49074
and information provided by the person being assessed or the 49075
person's representative. ~~The~~ 49076

The department of job and family services, or if the 49077
assessment is performed by ~~another~~ an agency ~~designated~~ under 49078
contract with the department pursuant to division (G) of this 49079
section ~~5101.754~~ of the Revised Code, the agency, shall, not later 49080
than the time the ~~assessment~~ level of care determination based on 49081
the assessment is required to be ~~performed~~ provided under division 49082
(C) of this section, give written notice of its conclusions and 49083
the basis for them to the person assessed and, if the department 49084
of job and family services or ~~designated entity~~ agency under 49085
contract with the department has been informed that the person has 49086
a representative, to the representative. 49087

(C) The department of job and family services or ~~designated~~ 49088
agency under contract with the department, whichever performs the 49089
assessment, shall ~~perform a complete assessment, or, if~~ 49090

~~circumstances provided by rules adopted under division (H) of this~~ 49091
~~section exist, a partial assessment, provide a level of care~~ 49092
determination based on the assessment as follows: 49093

(1) In the case of a person applying or intending to apply 49094
for admission to a nursing facility while hospitalized, not later 49095
than one of the following: 49096

(a) One working day after the person or the person's 49097
representative submits ~~an~~ the application ~~for admission to the~~ 49098
~~nursing facility~~ or notifies the department of the person's 49099
intention to apply and submits all information required for 49100
providing the level of care determination, as specified in rules 49101
adopted under division (F)(2) of this section; 49102

(b) A later date requested by the person or the person's 49103
representative. 49104

(2) In the case of ~~an emergency as determined in accordance~~ 49105
~~with rules adopted under division (H) of this section, not later~~ 49106
~~than one calendar day after the person or the person's~~ 49107
~~representative submits the application or notifies the department~~ 49108
~~of the person's intention to apply.~~ 49109

~~(3) In all other cases a person applying or intending to~~ 49110
apply for admission to a nursing facility who is not hospitalized, 49111
not later than one of the following: 49112

(a) Five calendar days after the person or the person's 49113
representative submits the application or notifies the department 49114
of the person's intention to apply and submits all information 49115
required for providing the level of care determination, as 49116
specified in rules adopted under division (F)(2) of this section; 49117

(b) A later date requested by the person or the person's 49118
representative. 49119

(3) In the case of a person who resides in a nursing 49120

facility, not later than one of the following: 49121

(a) Five calendar days after the person or the person's 49122
representative submits an application for medical assistance and 49123
submits all information required for providing the level of care 49124
determination, as specified in rules adopted under division (F)(2) 49125
of this section; 49126

(b) A later date requested by the person or the person's 49127
representative. 49128

(4) In the case of an emergency, as specified in rules 49129
adopted under division (F)(4) of this section, within the number 49130
of days specified in the rules. 49131

~~(D) If the department of job and family services or~~ 49132
~~designated agency conducts a partial assessment under division (C)~~ 49133
~~of this section, it shall complete the rest of the assessment not~~ 49134
~~later than one hundred eighty days after the date the person is~~ 49135
~~admitted to the nursing facility unless the department or~~ 49136
~~designated agency determines the person should be exempt from the~~ 49137
~~assessment.~~ 49138

~~(E) A person is not required to be assessed under this~~ 49139
~~section if the circumstances specified by rule adopted under~~ 49140
~~division (H) of this section exist or the department of job and~~ 49141
~~family services or designated agency determines after a partial~~ 49142
~~assessment that the person should be exempt from the assessment.~~ 49143

~~(F) A person assessed under this section or the person's~~ 49144
~~representative may appeal request a state hearing to dispute the~~ 49145
~~conclusions reached by the department of job and family services~~ 49146
~~or ~~designated~~ agency under contract with the department on the~~ 49147
~~basis of the assessment. The appeal request for a state hearing~~ 49148
~~shall be made in accordance with section 5101.35 of the Revised~~ 49149
~~Code. The department of job and family services or ~~designated~~~~ 49150
~~agency, ~~whichever performs the assessment,~~ under contract with the~~ 49151

department shall provide to the person or the person's 49152
representative and the nursing facility written notice of the 49153
person's right to ~~appeal~~ request a state hearing. The notice shall 49154
include an explanation of the procedure for ~~filing an appeal~~ 49155
requesting a state hearing. If a state hearing is requested, the 49156
state shall be represented in the hearing by the department of job 49157
and family services or the agency under contract with the 49158
department, whichever performed the assessment. 49159

~~(G)~~(E) A nursing facility that admits or retains a person 49160
determined pursuant to an assessment required under ~~division (B)~~ 49161
~~or (C)~~ of this section not to need the level of care provided by 49162
the nursing facility shall not be reimbursed under the ~~medical~~ 49163
assistance medicaid program for the person's care. 49164

~~(H)~~(F) The director of job and family services shall adopt 49165
rules in accordance with Chapter 119. of the Revised Code to 49166
implement and administer this section. The rules shall include all 49167
of the following: 49168

(1) Criteria and procedures to be used in determining whether 49169
admission to a nursing facility or continued stay in a nursing 49170
facility is appropriate for the person being assessed. ~~The~~ 49171
~~criteria shall include consideration of whether the person is in~~ 49172
~~need of any of the following:~~ 49173

~~(a) Nursing or rehabilitation services;~~ 49174

~~(b) Assistance with two or more of the activities of daily~~ 49175
~~living;~~ 49176

~~(c) Continuous supervision to prevent harm to the person as a~~ 49177
~~result of cognitive impairment.;~~ 49178

(2) Information the person being assessed or the person's 49179
representative must provide to the department or ~~designated~~ 49180
under contract with the department for purposes of the assessment 49181
and providing a level of care determination based on the 49182

<u>assessment;</u>	49183
(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;	49184 49185 49186
(4) Circumstances under which a person is not required to be assessed;	49187 49188
<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>	49189 49190 49191 49192
<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>	49193 49194 49195 49196 49197 49198
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 facility for the mentally retarded.	49199 49200 49201 49202 49203 49204 49205
In order to be eligible for medical assistance <u>medicaid</u> payments, <u>the operator of</u> a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:	49206 49207 49208
(1) Enter into a provider agreement with the department as provided in section 5111.22 of the Revised Code;	49209 49210
(2) Apply for and maintain a valid license to operate if so required by law;	49211 49212

(3) Comply with all applicable state and federal laws and rules. 49213
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(B) A(1) Except as provided in division (B)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement. 49215
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(2) The Ohio veteran's home agency is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program. 49225
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Sec. 5111.22. A provider agreement between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions: 49229
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(A) The department agrees to make payments to the ~~nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program~~ operator, as provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, for medicaid-covered services the facility provides to a resident of the facility who is a medicaid recipient. No payment shall be made for the day a medicaid recipient is discharged from the facility. 49233
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(B) The ~~provider~~ operator agrees to: 49241

(1) Maintain eligibility as provided in section 5111.21 of 49242

the Revised Code; 49243

(2) Keep records relating to a cost reporting period for the 49244
greater of seven years after the cost report is filed or, if the 49245
department issues an audit report in accordance with division (B) 49246
of section 5111.27 of the Revised Code, six years after all appeal 49247
rights relating to the audit report are exhausted; 49248

(3) File reports as required by the department; 49249

(4) Open all records relating to the costs of its services 49250
for inspection and audit by the department; 49251

(5) Open its premises for inspection by the department, the 49252
department of health, and any other state or local authority 49253
having authority to inspect; 49254

(6) Supply to the department such information as it requires 49255
concerning the facility's services to ~~patients~~ residents who are 49256
or are eligible to be medicaid recipients; 49257

(7) Comply with section 5111.31 of the Revised Code. 49258

The provider agreement may contain other provisions that are 49259
consistent with law and considered necessary by the department. 49260

A provider agreement shall be effective for no longer than 49261
twelve months, except that if federal statute or regulations 49262
authorize a longer term, it may be effective for a longer term so 49263
authorized. A provider agreement may be renewed only if the 49264
facility is certified by the department of health for 49265
participation in the medicaid program. 49266

The department of job and family services, in accordance with 49267
rules adopted ~~by the director pursuant to Chapter 119.~~ under 49268
section 5111.02 of the Revised Code, may elect not to enter into, 49269
not to renew, or to terminate a provider agreement when the 49270
department determines that such an agreement would not be in the 49271
best interests of ~~the~~ medicaid recipients or of the state. 49272

Sec. 5111.221. The department of job and family services 49273
shall make its best efforts each year to calculate rates under 49274
sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code in 49275
time to use them to make the payments due to ~~nursing facilities~~ 49276
~~and intermediate care facilities for the mentally retarded~~ 49277
providers by the fifteenth day of August. If the department is 49278
unable to calculate the rates so that they can be paid by that 49279
date, the department shall pay each ~~facility~~ provider the rate 49280
calculated for ~~it~~ the provider's nursing facilities and 49281
intermediate care facilities for the mentally retarded under those 49282
sections at the end of the previous fiscal year. If the department 49283
also is unable to calculate the rates to make the payments due by 49284
the fifteenth day of September and the fifteenth day of October, 49285
the department shall pay the previous fiscal year's rate to make 49286
those payments. The department may increase by five per cent the 49287
previous fiscal year's rate paid ~~to~~ for any facility pursuant to 49288
this section at the request of the ~~facility~~ provider. The 49289
department shall use rates calculated for the current fiscal year 49290
to make the payments due by the fifteenth day of November. 49291

If the rate paid to a provider for a facility pursuant to 49292
this section is lower than the rate calculated for ~~it~~ the facility 49293
for the current fiscal year, the department shall pay the ~~facility~~ 49294
provider the difference between the two rates for the number of 49295
days for which the ~~facility~~ provider was paid for the facility 49296
pursuant to this section. If the rate paid ~~to~~ for a facility 49297
pursuant to this section is higher than the rate calculated for it 49298
for the current fiscal year, the ~~facility~~ provider shall refund to 49299
the department the difference between the two rates for the number 49300
of days for which the ~~facility~~ provider was paid for the facility 49301
pursuant to this section. 49302

Sec. 5111.222. The operator of a nursing facility or 49303

intermediate care facility for the mentally retarded may enter 49304
into provider agreements for more than one nursing facility or 49305
intermediate care facility for the mentally retarded. 49306

Sec. 5111.23. (A) The department of job and family services 49307
shall pay a provider for each of the provider's eligible ~~nursing~~ 49308
~~facility and~~ intermediate care ~~facility~~ facilities for the 49309
mentally retarded a per resident per day rate for direct care 49310
costs established prospectively for each facility. The department 49311
shall establish each facility's rate for direct care costs 49312
quarterly. 49313

(B) Each facility's rate for direct care costs shall be based 49314
on the facility's cost per case-mix unit, subject to the maximum 49315
costs per case-mix unit established under division (B)(2) of this 49316
section, from the calendar year preceding the fiscal year in which 49317
the rate is paid. To determine the rate, the department shall do 49318
all of the following: 49319

(1) Determine each facility's cost per case-mix unit for the 49320
calendar year preceding the fiscal year in which the rate will be 49321
paid by dividing the facility's desk-reviewed, actual, allowable, 49322
per diem direct care costs for that year by its average case-mix 49323
score determined under section ~~5111.231~~ 5111.232 of the Revised 49324
Code for the same calendar year. 49325

(2)(a) ~~Set the maximum cost per case mix unit for each peer~~ 49326
~~group of nursing facilities specified in rules adopted under~~ 49327
~~division (E) of this section at a percentage above the cost per~~ 49328
~~case mix unit of the facility in the group that has the group's~~ 49329
~~median medicaid inpatient day for the calendar year preceding the~~ 49330
~~fiscal year in which the rate will be paid, as calculated under~~ 49331
~~division (B)(1) of this section, that is no less than the~~ 49332
~~percentage calculated under division (D)(1) of this section.~~ 49333

~~(b)~~ Set the maximum cost per case-mix unit for each peer 49334
group of intermediate care facilities for the mentally retarded 49335
with more than eight beds specified in rules adopted under 49336
division (E) of this section at a percentage above the cost per 49337
case-mix unit of the facility in the group that has the group's 49338
median medicaid inpatient day for the calendar year preceding the 49339
fiscal year in which the rate will be paid, as calculated under 49340
division (B)(1) of this section, that is no less than the 49341
percentage calculated under division (D)(2) of this section. 49342

~~(e)~~(b) Set the maximum cost per case-mix unit for each peer 49343
group of intermediate care facilities for the mentally retarded 49344
with eight or fewer beds specified in rules adopted under division 49345
(E) of this section at a percentage above the cost per case-mix 49346
unit of the facility in the group that has the group's median 49347
medicaid inpatient day for the calendar year preceding the fiscal 49348
year in which the rate will be paid, as calculated under division 49349
(B)(1) of this section, that is no less than the percentage 49350
calculated under division (D)(3) of this section. 49351

~~(d)~~(c) In calculating the maximum cost per case-mix unit 49352
under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer 49353
group, the department shall exclude from its calculations the cost 49354
per case-mix unit of any facility in the group that participated 49355
in the ~~medical assistance~~ medicaid program under the same operator 49356
for less than twelve months during the calendar year preceding the 49357
fiscal year in which the rate will be paid. 49358

(3) Estimate the rate of inflation for the eighteen-month 49359
period beginning on the first day of July of the calendar year 49360
preceding the fiscal year in which the rate will be paid and 49361
ending on the thirty-first day of December of the fiscal year in 49362
which the rate will be paid, using the employment cost index for 49363
total compensation, health services component, published by the 49364
United States bureau of labor statistics. If the estimated 49365

inflation rate for the eighteen-month period is different from the 49366
actual inflation rate for that period, as measured using the same 49367
index, the difference shall be added to or subtracted from the 49368
inflation rate estimated under division (B)(3) of this section for 49369
the following fiscal year. 49370

(4) The department shall not recalculate a maximum cost per 49371
case-mix unit under division (B)(2) of this section or a 49372
percentage under division (D) of this section based on additional 49373
information that it receives after the maximum costs per case-mix 49374
unit or percentages are set. The department shall recalculate a 49375
maximum cost per case-mix units or percentage only if it made an 49376
error in computing the maximum cost per case-mix unit or 49377
percentage based on information available at the time of the 49378
original calculation. 49379

(C) Each facility's rate for direct care costs shall be 49380
determined as follows for each calendar quarter within a fiscal 49381
year: 49382

(1) Multiply the lesser of the following by the facility's 49383
average case-mix score determined under section ~~5111.231~~ 5111.232 49384
of the Revised Code for the calendar quarter that preceded the 49385
immediately preceding calendar quarter: 49386

(a) The facility's cost per case-mix unit for the calendar 49387
year preceding the fiscal year in which the rate will be paid, as 49388
determined under division (B)(1) of this section; 49389

(b) The maximum cost per case-mix unit established for the 49390
fiscal year in which the rate will be paid for the facility's peer 49391
group under division (B)(2) of this section; 49392

(2) Adjust the product determined under division (C)(1) of 49393
this section by the inflation rate estimated under division (B)(3) 49394
of this section. 49395

(D)(1) ~~The department shall calculate the percentage above 49396
the median cost per case mix unit determined under division (B)(1) 49397
of this section for the facility that has the median medicaid 49398
inpatient day for calendar year 1992 for all nursing facilities 49399
that would result in payment of all desk reviewed, actual, 49400
allowable direct care costs for eighty five per cent of the 49401
medicaid inpatient days for nursing facilities for calendar year 49402
1992. 49403~~

~~(2)~~ The department shall calculate the percentage above the 49404
median cost per case-mix unit determined under division (B)(1) of 49405
this section for the facility that has the median medicaid 49406
inpatient day for calendar year 1992 for all intermediate care 49407
facilities for the mentally retarded with more than eight beds 49408
that would result in payment of all desk-reviewed, actual, 49409
allowable direct care costs for eighty and one-half per cent of 49410
the medicaid inpatient days for such facilities for calendar year 49411
1992. 49412

~~(3)~~(2) The department shall calculate the percentage above 49413
the median cost per case-mix unit determined under division (B)(1) 49414
of this section for the facility that has the median medicaid 49415
inpatient day for calendar year 1992 for all intermediate care 49416
facilities for the mentally retarded with eight or fewer beds that 49417
would result in payment of all desk-reviewed, actual, allowable 49418
direct care costs for eighty and one-half per cent of the medicaid 49419
inpatient days for such facilities for calendar year 1992. 49420

(E) The director of job and family services shall adopt rules 49421
~~in accordance with Chapter 119. under section 5111.02 of the 49422~~
Revised Code that specify peer groups of ~~nursing facilities,~~ 49423
intermediate care facilities for the mentally retarded with more 49424
than eight beds, and intermediate care facilities for the mentally 49425
retarded with eight or fewer beds, based on findings of 49426
significant per diem direct care cost differences due to geography 49427

and facility bed-size. The rules also may specify peer groups 49428
based on findings of significant per diem direct care cost 49429
differences due to other factors which may include, ~~in the case of~~ 49430
~~intermediate care facilities for the mentally retarded,~~ case-mix. 49431

(F) The department, in accordance with division (C) of 49432
section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted 49433
under division (D) of that section, may assign case-mix scores or 49434
costs per case-mix unit if a ~~faecility~~ provider fails to submit 49435
assessment ~~information~~ data necessary to calculate ~~its~~ an 49436
intermediate care facility for the mentally retarded's case-mix 49437
score in accordance with that section. 49438

Sec. 5111.231. (A) The department of job and family services 49439
shall pay a provider for each of the provider's eligible nursing 49440
facilities a per resident per day rate for direct care costs 49441
established prospectively for each facility. The department shall 49442
establish each facility's rate for direct care costs quarterly. 49443

(B) Each facility's rate for direct care costs shall be based 49444
on the facility's cost per case-mix unit, subject to the maximum 49445
costs per case-mix unit established under division (B)(2) of this 49446
section, from the calendar year preceding the fiscal year in which 49447
the rate is paid. To determine the rate, the department shall do 49448
all of the following: 49449

(1) Determine each facility's cost per case-mix unit for the 49450
calendar year preceding the fiscal year in which the rate will be 49451
paid by dividing the facility's desk-reviewed, actual, allowable, 49452
per diem direct care costs for that year by its average case-mix 49453
score determined under section 5111.232 of the Revised Code for 49454
the same calendar year. 49455

(2)(a) Set the maximum cost per case-mix unit for each peer 49456
group of nursing facilities specified in division (D) of this 49457
section at one hundred sixteen per cent above the cost per 49458

case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section. 49459
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(b) In calculating the maximum cost per case-mix unit under division (B)(2)(a) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of either of the following: 49463
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(i) Any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid; 49467
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(ii) Any facility in the group that has a cost per case-mix unit that is more than one standard deviation greater or less than the mean cost per case-mix unit for all nursing facilities in the group for the calendar year preceding the fiscal year in which the rate will be paid. 49471
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(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the employment cost index for total compensation, health services component, 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, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year. 49476
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(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section based on 49488
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additional information that it receives after the maximum costs 49490
per case-mix unit are set. The department shall recalculate a 49491
maximum cost per case-mix units only if it made an error in 49492
computing the maximum cost per case-mix unit based on information 49493
available at the time of the original calculation. 49494

(C) Each facility's rate for direct care costs shall be 49495
determined as follows for each calendar quarter within a fiscal 49496
year: 49497

(1) Multiply the lesser of the following by the facility's 49498
average case-mix score determined under section 5111.232 of the 49499
Revised Code for the calendar quarter that preceded the 49500
immediately preceding calendar quarter: 49501

(a) The facility's cost per case-mix unit for the calendar 49502
year preceding the fiscal year in which the rate will be paid, as 49503
determined under division (B)(1) of this section; 49504

(b) The maximum cost per case-mix unit established for the 49505
fiscal year in which the rate will be paid for the facility's peer 49506
group under division (B)(2) of this section; 49507

(2) Adjust the product determined under division (C)(1) of 49508
this section by the inflation rate estimated under division (B)(3) 49509
of this section. 49510

(D)(1) The director of job and family services shall use peer 49511
groups of nursing facilities for the purpose of this section that 49512
are the same as the peer groups specified in rules that were 49513
authorized by section 5111.23 of the Revised Code as that section 49514
existed on the day before the effective date of this section and 49515
were in effect on January 1, 2004, except that nursing facilities 49516
located in Ottawa, Erie, Morrow, Union, or Preble counties shall 49517
be added to the metropolitan statistical area peer group specified 49518
in those rules. 49519

(E) The department, in accordance with division (C) of section 5111.232 of the Revised Code and rules adopted under division (D) of that section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate a nursing facility's case-mix score in accordance with that section.

Sec. ~~5111.231~~ 5111.232. (A)(1) The department of job and family services shall determine case-mix scores for nursing facilities using data for each resident, regardless of payment source, from a resident assessment instrument specified in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, and the case-mix values established by the United States department of health and human services. Except as modified in rules ~~adopted under~~ authorized by division (A)(1)(c) of this section, the department also shall use the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The director of job and family services may adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that do any of the following:

(a) Adjust the case-mix values to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of the case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(c) Modify the grouper methodology as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999+;

~~(iv) Make other changes the nursing facility reimbursement study council established by section 5111.34 of the Revised Code approves.~~

(2) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

(B) ~~Not later than fifteen days after the end of each~~ Each calendar quarter, each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider shall ~~submit to the department the~~ compile complete assessment data, from the resident assessment instrument specified in rules ~~adopted under~~ authorized by division (A) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end

of the calendar quarter for which the data is compiled. 49582

Except as provided in division (C) of this section, the 49583
department, after the end of each calendar year and pursuant to 49584
procedures specified in rules adopted ~~in accordance with Chapter~~ 49585
~~119.~~ under section 5111.02 of the Revised Code, shall calculate an 49586
annual average case-mix score for each nursing facility and 49587
intermediate care facility for the mentally retarded using the 49588
facility's quarterly case-mix scores for that calendar year. 49589

(C)(1) If a facility provider does not timely submit 49590
information for a calendar quarter necessary to calculate ~~its~~ a 49591
facility's case-mix score, or submits incomplete or inaccurate 49592
information for a calendar quarter, the department may assign the 49593
facility a quarterly average case-mix score that is five per cent 49594
less than the facility's quarterly average case-mix score for the 49595
preceding calendar quarter. If the facility was subject to an 49596
exception review under division (C) of section 5111.27 of the 49597
Revised Code for the preceding calendar quarter, the department 49598
may assign a quarterly average case-mix score that is five per 49599
cent less than the score determined by the exception review. If 49600
the facility was assigned a quarterly average case-mix score for 49601
the preceding quarter, the department may assign a quarterly 49602
average case-mix score that is five per cent less than that score 49603
assigned for the preceding quarter. 49604

The department may use a quarterly average case-mix score 49605
assigned under division (C)(1) of this section, instead of a 49606
quarterly average case-mix score calculated based on the 49607
~~facility's provider's~~ provider's submitted information, to calculate the 49608
facility's rate for direct care costs being established under 49609
section 5111.23 or 5111.231 of the Revised Code for one or more 49610
months, as specified in rules ~~adopted under~~ authorized by division 49611
(D) of this section, of the quarter for which the rate established 49612
under section 5111.23 or 5111.231 of the Revised Code will be 49613

paid. 49614

Before taking action under division (C)(1) of this section, 49615
the department shall permit the ~~facility~~ provider a reasonable 49616
period of time, specified in rules ~~adopted under~~ authorized by 49617
division (D) of this section, to correct the information. In the 49618
case of an intermediate care facility for the mentally retarded, 49619
the department shall not assign a quarterly average case-mix score 49620
due to late submission of corrections to assessment information 49621
unless the ~~facility~~ provider fails to submit corrected information 49622
prior to the eighty-first day after the end of the calendar 49623
quarter to which the information pertains. In the case of a 49624
nursing facility, the department shall not assign a quarterly 49625
average case-mix score due to late submission of corrections to 49626
assessment information unless the ~~facility~~ provider fails to 49627
submit corrected information prior to the earlier of the 49628
eighty-first day after the end of the calendar quarter to which 49629
the information pertains or the deadline for submission of such 49630
corrections established by regulations adopted by the United 49631
States department of health and human services under Titles XVIII 49632
and XIX of the Social Security Act. 49633

(2) If a ~~facility~~ provider is paid a rate for a facility 49634
calculated using a quarterly average case-mix score assigned under 49635
division (C)(1) of this section for more than six months in a 49636
calendar year, the department may assign the facility a cost per 49637
case-mix unit that is five per cent less than the facility's 49638
actual or assigned cost per case-mix unit for the preceding 49639
calendar year. The department may use the assigned cost per 49640
case-mix unit, instead of calculating the facility's actual cost 49641
per case-mix unit in accordance with section 5111.23 or 5111.231 49642
of the Revised Code, to establish the facility's rate for direct 49643
care costs for the following fiscal year. 49644

(3) The department shall take action under division (C)(1) or 49645

(2) of this section only in accordance with rules ~~adopted under~~ 49646
authorized by division (D) of this section. The department shall 49647
not take an action that affects rates for prior payment periods 49648
except in accordance with sections 5111.27 and 5111.28 of the 49649
Revised Code. 49650

(D) The director ~~may~~ shall adopt rules ~~in accordance with~~ 49651
~~Chapter 119.~~ under section 5111.02 of the Revised Code that do ~~any~~ 49652
all of the following: 49653

(1) Specify whether providers of a nursing facility must 49654
submit the assessment data to the department of job and family 49655
services; 49656

(2) Specify the medium or media through which the completed 49657
assessment ~~information~~ data shall be submitted; 49658

~~(2)~~(3) Establish procedures under which the ~~department will~~ 49659
~~review~~ assessment ~~information~~ data shall be reviewed for accuracy 49660
and ~~notify the facility providers shall be notified~~ of any 49661
~~information~~ data that requires correction; 49662

~~(3)~~(4) Establish procedures for ~~facilities~~ providers to 49663
correct assessment ~~information~~. The procedures ~~may prohibit an~~ 49664
~~intermediate care facility for the mentally retarded from~~ 49665
~~submitting corrected assessment information, for the purpose of~~ 49666
~~calculating its annual average case mix score, more than two~~ 49667
~~calendar quarters after the end of the quarter to which the~~ 49668
~~information pertains or, if the information pertains to the~~ 49669
~~quarter ending the thirty first day of December, after the~~ 49670
~~thirty first day of the following March~~ data and specify a 49671
reasonable period of time by which providers shall submit the 49672
corrections. The procedures may limit the content of corrections 49673
by providers of nursing facilities in the manner required by 49674
regulations adopted by the United States department of health and 49675
human services under Titles XVIII and XIX of the Social Security 49676

~~Act and prohibit a nursing facility from submitting corrected 49677
assessment information, for the purpose of calculating its annual 49678
average case mix score, more than the earlier of the following: 49679~~

~~(a) Two calendar quarters after the end of the quarter to 49680
which the information pertains or, if the information pertains to 49681
the quarter ending the thirty first day of December, after the 49682
thirty first day of the following March; 49683~~

~~(b) The deadline for submission of such corrections 49684
established by regulations adopted by the United States department 49685
of health and human services under Titles XVIII and XIX of the 49686
Social Security Act. 49687~~

~~(4)(5) Specify when and how the department will assign 49688
case-mix scores or costs per case-mix unit under division (C) of 49689
this section if information necessary to calculate the facility's 49690
average annual or quarterly case-mix score is not provided or 49691
corrected in accordance with the procedures established by the 49692
rules. Notwithstanding any other provision of sections 5111.20 to 49693
5111.32 5111.33 of the Revised Code, the rules also may provide 49694
for exclusion of case-mix scores assigned under division (C) of 49695
this section from calculation of the facility's annual average 49696
case-mix score and the maximum cost per case-mix unit for the 49697
facility's peer group. 49698~~

Sec. 5111.234. (A) As used in this section, "deficiency" and 49699
"standard survey" have the same meanings as in section 5111.35 of 49700
the Revised Code. 49701

(B) Each year, the department of job and family services 49702
shall pay each nursing facility placed in the first, second, and 49703
third quality tier groups established under division (C) of this 49704
section a quality incentive payment. Nursing facilities placed in 49705
the first group shall receive the highest payment. Nursing 49706
facilities placed in the second group shall receive the second 49707

highest payment. Nursing facilities placed in the third group 49708
shall receive the third highest payment. Nursing facilities placed 49709
in the fourth group shall receive no payment. The mean payment, 49710
weighted by medicaid days, shall be two per cent of the average 49711
rate for all nursing facilities calculated under sections 5111.20 49712
to 5111.33 of the Revised Code, excluding this section. Nursing 49713
facilities placed in the fourth group shall be included for the 49714
purpose of determining the mean payment. 49715

(C) Each year, the department shall establish four quality 49716
tier groups. Each group shall consist of one quarter of all 49717
nursing facilities participating in the medicaid program. The 49718
first group shall consist of the quarter of nursing facilities 49719
individually awarded the most number of points under division (D) 49720
of this section. The second group shall consist of the quarter of 49721
nursing facilities individually awarded the second most number of 49722
points under division (D) of this section. The third group shall 49723
consist of the quarter of nursing facilities individually awarded 49724
the third most number of points under division (D) of this 49725
section. The fourth group shall consist of the quarter of nursing 49726
facilities individually awarded the least number of points under 49727
division (D) of this section. 49728

(D) Each year, the department shall award each nursing 49729
facility participating in the medicaid program one point for each 49730
of the following accountability measures the facility meets: 49731

(1) The facility had no health deficiencies on the facility's 49732
most recent standard survey. 49733

(2) The facility had no health deficiencies with a scope and 49734
severity level greater than E, as determined under nursing 49735
facility certification standards established under Title XIX, on 49736
the facility's most recent standard survey. 49737

(3) The facility's resident satisfaction is above the 49738

<u>statewide average.</u>	49739
<u>(4) The facility's family satisfaction is above the statewide average.</u>	49740
	49741
<u>(5) The number of hours the facility employs nurses is above the statewide average.</u>	49742
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<u>(6) The facility's employee retention rate is above the average for the facility's peer group specified in division (D) of section 5111.231 of the Revised Code.</u>	49744
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<u>(7) The facility's occupancy rate is above the statewide average.</u>	49747
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<u>(8) The facility's medicaid utilization rate is above the statewide average.</u>	49749
	49750
<u>(9) The facility's case-mix score is above the statewide average.</u>	49751
	49752
<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>	49753
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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	49757
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in which the rate will be paid and ending on the thirty-first day 49769
of December of that fiscal year. The department shall estimate 49770
inflation using the consumer price index for all urban consumers 49771
for nonprescription drugs and medical supplies, as published by 49772
the United States bureau of labor statistics. If the estimated 49773
inflation rate for the eighteen-month period is different from the 49774
actual inflation rate for that period, the difference shall be 49775
added to or subtracted from the inflation rate estimated for the 49776
following year. 49777

Sec. 5111.24. (A) The department of job and family services 49778
shall pay a provider for each of the provider's eligible nursing 49779
facility facilities a per resident per day rate for ~~indirect care~~ 49780
ancillary and support costs established prospectively each fiscal 49781
year for each facility peer group of nursing facilities specified 49782
in division (E) of this section. The rate shall be based on the 49783
prices for nursing facility's ancillary and support costs. The 49784
rate for each ~~nursing facility peer group~~ shall be the ~~sum of the~~ 49785
~~following, but shall not exceed the maximum rate established for~~ 49786
~~the facility's peer group under division (B) of this section:~~ 49787

~~(1) The facility's desk reviewed, actual, allowable, per diem~~ 49788
~~indirect care costs from the calendar year preceding the fiscal~~ 49789
~~year in which the rate will be paid, adjusted for the inflation~~ 49790
~~rate estimated under division (C)(1) of this section;~~ 49791

~~(2) An efficiency incentive in the following amount:~~ 49792

~~(a) For fiscal years ending in even numbered calendar years,~~ 49793
~~the difference between the maximum rate established for the~~ 49794
~~facility's peer group under division (B) of this section and the~~ 49795
~~median, actual, allowable, per diem indirect care costs for the~~ 49796
~~facility's peer group;~~ 49797

~~(b) For fiscal years ending in odd numbered calendar years,~~ 49798
~~the amount calculated for the preceding fiscal year under division~~ 49799

~~(A)(2)(a) of this section.~~ 49800

~~(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:~~ 49801
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~~(1) For fiscal years that end in even numbered calendar years, the maximum rate for each peer group shall be the rate amount that is ~~twelve and one half~~ eight per cent above the desk-reviewed, actual, allowable, per diem ~~indirect care ancillary and support~~ cost of the facility in the peer group that has the group's median medicaid inpatient day for ~~the~~ calendar year ~~preceding the fiscal year in which the rate will be paid 2005~~, adjusted annually by the inflation rate estimated under division ~~(C)(D)~~(1) of this section. In determining the ~~maximum~~ rate for each peer group, the department shall ~~exclude~~ do both of the following: 49804
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(1) Use the greater of each nursing facility's actual inpatient days for calendar year 2005 or the inpatient days the facility would have had for calendar year 2005 if its occupancy rate had been ninety per cent; 49815
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(2) Exclude from its calculations both of the following: 49819

(a) Facilities in the group that participated in the ~~medical assistance~~ medicaid program under the same ~~operator~~ provider for less than twelve months in ~~the~~ calendar year ~~preceding the fiscal year in which the rate will be paid 2005~~; 49820
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(b) Facilities in the group whose ~~indirect care ancillary and support~~ costs are more than ~~three~~ one standard ~~deviations~~ deviation from the mean desk-reviewed, actual, allowable, per diem ~~indirect care ancillary and support~~ cost for all nursing facilities in the group for ~~the~~ calendar year ~~preceding the fiscal year in which the rate will be paid 2005~~. 49824
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~~(2) For fiscal years that end in odd numbered calendar (B) 49830
Beginning in fiscal year 2010 and every three years thereafter, 49831
the maximum rate department shall recalculate the rate for 49832
ancillary and support costs for each peer group is the group's 49833
maximum rate for the previous fiscal year, adjusted for the 49834
inflation rate estimated under division (C)(2) of this section. 49835
The rate shall be calculated as under division (A) of this 49836
section, except that references to calendar year 2005 in that 49837
division shall be deemed to be references to the calendar year 49838
preceding the fiscal year for which the rate will be paid. 49839~~

~~(3)(C) The department shall not recalculate a maximum rate 49840
for indirect care ancillary and support costs under division (A) 49841
or (B)(1) or (2) of this section based on additional information 49842
that it receives after the maximum rate is set. The department 49843
shall recalculate the maximum rate for indirect care ancillary and 49844
support costs only if it made an error in computing the maximum 49845
rate based on the information available at the time of the 49846
original calculation. 49847~~

~~(C)(1) When adjusting rates for inflation under divisions (A) 49848
and (B)(1) of this section, the department shall estimate the rate 49849
of inflation for the eighteen month period beginning on the first 49850
day of July of the calendar year preceding the fiscal year in 49851
which the rate will be paid and ending on the thirty first day of 49852
December of the fiscal year in which the rate will be paid, using 49853
the consumer price index for all items for all urban consumers for 49854
the north central region, published by the United States bureau of 49855
labor statistics. 49856~~

~~(2)(D)(1) When annually adjusting rates for inflation under 49857
division (B)(2) of this section, the department shall estimate the 49858
rate of inflation for the twelve-month period beginning on the 49859
first day of January preceding the fiscal year in which the rate 49860
will be paid and ending on the thirty-first day of December of the 49861~~

fiscal year in which the rate will be paid, using the consumer 49862
price index for ~~all items for all urban consumers~~ nursing homes 49863
for the north central region, published by the United States 49864
bureau of labor statistics. 49865

~~(3)~~(2) If an inflation rate estimated under division 49866
~~(C)~~(D)~~(1)~~ ~~or~~ ~~(2)~~ of this section is different from the actual 49867
inflation rate for the relevant time period, as measured using the 49868
same index, the difference shall be added to or subtracted from 49869
the inflation rate estimated for the same purpose pursuant to this 49870
division for the following fiscal year. 49871

~~(D)~~(E) The director of job and family services shall ~~adopt~~ 49872
~~rules in accordance with Chapter 119. of the Revised Code that~~ 49873
~~specify use~~ peer groups of nursing facilities ~~based on findings of~~ 49874
~~significant per diem indirect care cost differences due to~~ 49875
~~geography and facility bed size. The rules also may specify peer~~ 49876
~~groups based on findings of significant per diem indirect care~~ 49877
~~cost differences due to other factors~~ for the purpose of this 49878
section that are the same as the peer groups specified in rules 49879
that were authorized by this section as this section existed on 49880
the day before the effective date of this amendment and were in 49881
effect on January 1, 2004, except that nursing facilities located 49882
in Ottawa, Erie, Morrow, Union, or Preble counties shall be added 49883
to the metropolitan statistical area peer group specified in those 49884
rules. 49885

Sec. 5111.241. (A) The department of job and family services 49886
shall pay a provider for each of the provider's eligible 49887
intermediate care ~~facility~~ facilities for the mentally retarded a 49888
per resident per day rate for indirect care costs established 49889
prospectively each fiscal year for each facility. The rate for 49890
each intermediate care facility for the mentally retarded shall be 49891
the sum of the following, but shall not exceed the maximum rate 49892

established for the facility's peer group under division (B) of 49893
this section: 49894

(1) The facility's desk-reviewed, actual, allowable, per diem 49895
indirect care costs from the calendar year preceding the fiscal 49896
year in which the rate will be paid, adjusted for the inflation 49897
rate estimated under division (C)(1) of this section; 49898

(2) An efficiency incentive in the following amount: 49899

(a) For fiscal years ending in even-numbered calendar years: 49900

(i) In the case of intermediate care facilities for the 49901
mentally retarded with more than eight beds, seven and one-tenth 49902
per cent of the maximum rate established for the facility's peer 49903
group under division (B) of this section; 49904

(ii) In the case of intermediate care facilities for the 49905
mentally retarded with eight or fewer beds, seven per cent of the 49906
maximum rate established for the facility's peer group under 49907
division (B) of this section; 49908

(b) For fiscal years ending in odd-numbered calendar years, 49909
the amount calculated for the preceding fiscal year under division 49910
(A)(2)(a) of this section. 49911

(B)(1) The maximum rate for indirect care costs for each peer 49912
group of intermediate care facilities for the mentally retarded 49913
with more than eight beds specified in rules adopted under 49914
division (D) of this section shall be determined as follows: 49915

(a) For fiscal years ending in even-numbered calendar years, 49916
the maximum rate for each peer group shall be the rate that is no 49917
less than twelve and four-tenths per cent above the median 49918
desk-reviewed, actual, allowable, per diem indirect care cost for 49919
all intermediate care facilities for the mentally retarded with 49920
more than eight beds in the group, excluding facilities in the 49921
group whose indirect care costs for that period are more than 49922

three standard deviations from the mean desk-reviewed, actual, 49923
allowable, per diem indirect care cost for all intermediate care 49924
facilities for the mentally retarded with more than eight beds, 49925
for the calendar year preceding the fiscal year in which the rate 49926
will be paid, adjusted by the inflation rate estimated under 49927
division (C)(1) of this section. 49928

(b) For fiscal years ending in odd-numbered calendar years, 49929
the maximum rate for each peer group is the group's maximum rate 49930
for the previous fiscal year, adjusted for the inflation rate 49931
estimated under division (C)(2) of this section. 49932

(2) The maximum rate for indirect care costs for each peer 49933
group of intermediate care facilities for the mentally retarded 49934
with eight or fewer beds specified in rules adopted under division 49935
(D) of this section shall be determined as follows: 49936

(a) For fiscal years ending in even-numbered calendar years, 49937
the maximum rate for each peer group shall be the rate that is no 49938
less than ten and three-tenths per cent above the median 49939
desk-reviewed, actual, allowable, per diem indirect care cost for 49940
all intermediate care facilities for the mentally retarded with 49941
eight or fewer beds in the group, excluding facilities in the 49942
group whose indirect care costs are more than three standard 49943
deviations from the mean desk-reviewed, actual, allowable, per 49944
diem indirect care cost for all intermediate care facilities for 49945
the mentally retarded with eight or fewer beds, for the calendar 49946
year preceding the fiscal year in which the rate will be paid, 49947
adjusted by the inflation rate estimated under division (C)(1) of 49948
this section. 49949

(b) For fiscal years that end in odd-numbered calendar years, 49950
the maximum rate for each peer group is the group's maximum rate 49951
for the previous fiscal year, adjusted for the inflation rate 49952
estimated under division (C)(2) of this section. 49953

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(2) When adjusting rates for inflation under divisions (B)(1)(b) and (B)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

(3) If an inflation rate estimated under division (C)(1) or (2) of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this division for the following fiscal year.

(D) The director of job and family services shall adopt rules 49985
~~in accordance with Chapter 119.~~ under section 5111.02 of the 49986
Revised Code that specify peer groups of intermediate care 49987
facilities for the mentally retarded with more than eight beds, 49988
and peer groups of intermediate care facilities for the mentally 49989
retarded with eight or fewer beds, based on findings of 49990
significant per diem indirect care cost differences due to 49991
geography and facility bed-size. The rules also may specify peer 49992
groups based on findings of significant per diem indirect care 49993
cost differences due to other factors, including case-mix. 49994

Sec. 5111.242. The department of job and family services 49995
shall pay each eligible nursing facility a per resident per day 49996
rate equal to the desk-reviewed, actual, allowable taxes imposed 49997
under Chapter 5751. of the Revised Code, real estate taxes, 49998
personal property taxes, and corporate franchise taxes the nursing 49999
facility paid during the calendar year preceding the fiscal year 50000
for which the payment is made divided by the number of inpatient 50001
days the facility would have had had its occupancy rate been one 50002
hundred per cent during that calendar year. 50003

Sec. 5111.25. (A) The department of job and family services 50004
shall pay a provider for each of the provider's eligible nursing 50005
~~facility facilities~~ a per resident per day rate for its reasonable 50006
capital costs established prospectively each fiscal year for each 50007
facility. Except as otherwise provided in sections 5111.20 to 50008
~~5111.32~~ 5111.33 of the Revised Code, the rate shall be based on 50009
the facility's capital costs for the calendar year preceding the 50010
fiscal year in which the rate will be paid. The rate shall equal 50011
the sum of divisions (A)(1) ~~to (3)~~ and (2) of this section: 50012

(1) The lesser of the following: 50013

(a) ~~Eighty eight and sixty five one hundredths~~ Ninety-five 50014

per cent of the facility's desk-reviewed, actual, allowable, per 50015
diem ~~cost of ownership and eighty five per cent of the facility's~~ 50016
~~actual, allowable, per diem cost of nonextensive renovation~~ 50017
~~determined under division (F) of this section~~ capital costs; 50018

(b) ~~Eighty eight and sixty five one hundredths per cent of~~ 50019
the The following limitation: 50020

(i) For ~~the fiscal year beginning July 1, 1993~~ years 2007 and 50021
2008, sixteen twenty dollars and two cents per resident day; 50022

(ii) For ~~the fiscal year beginning July 1, 1994, sixteen~~ 50023
~~dollars per resident day, adjusted to reflect the rate of~~ 50024
~~inflation for the twelve month period beginning July 1, 1992, and~~ 50025
~~ending June 30, 1993, using the consumer price index for shelter~~ 50026
~~costs for all urban consumers for the north central region,~~ 50027
~~published by the United States bureau of labor statistics;~~ 50028

~~(iii)~~ For subsequent fiscal years, the limitation in effect 50029
during the previous fiscal year, adjusted to reflect the rate of 50030
inflation for the twelve-month period beginning on the first day 50031
of July for the calendar year preceding the calendar year that 50032
precedes the fiscal year and ending on the following thirtieth day 50033
of June, using the consumer price index for shelter costs for all 50034
urban consumers for the north central region, published by the 50035
United States bureau of labor statistics. 50036

(2) Any efficiency incentive determined under division (D) of 50037
this section. 50038

~~(3) Any amounts for return on equity determined under~~ 50039
~~division (H) of this section.~~ 50040

Buildings shall be depreciated using the straight line method 50041
over forty years or over a different period approved by the 50042
department. Components and equipment shall be depreciated using 50043
the straight-line method over a period designated in rules adopted 50044
~~by the director of job and family services in accordance with~~ 50045

~~Chapter 119.~~ under section 5111.02 of the Revised Code, consistent 50046
with the guidelines of the American hospital association, or over 50047
a different period approved by the department. Any rules ~~adopted~~ 50048
~~under~~ authorized by this division that specify useful lives of 50049
buildings, components, or equipment apply only to assets acquired 50050
on or after July 1, 1993. Depreciation for costs paid or 50051
reimbursed by any government agency shall not be included in ~~cost~~ 50052
~~of ownership or renovation~~ capital costs unless that part of the 50053
payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 50054
Code is used to reimburse the government agency. 50055

(B) The capital cost basis of nursing facility assets shall 50056
be determined in the following manner: 50057

(1) ~~For purposes of calculating the rate to be paid for the~~ 50058
~~fiscal year beginning July 1, 1993, for facilities with dates of~~ 50059
~~licensure on or before June 30, 1993, the capital cost basis shall~~ 50060
~~be equal to the following:~~ 50061

~~(a) For facilities that have not had a change of ownership~~ 50062
~~during the period beginning January 1, 1993, and ending June 30,~~ 50063
~~1993, the desk reviewed, actual, allowable capital cost basis that~~ 50064
~~is listed on the facility's cost report for the cost reporting~~ 50065
~~period ending December 31, 1992, plus the actual, allowable~~ 50066
~~capital cost basis of any assets constructed or acquired after~~ 50067
~~December 31, 1992, but before July 1, 1993, if the aggregate~~ 50068
~~capital costs of those assets would increase the facility's rate~~ 50069
~~for capital costs by twenty or more cents per resident per day.~~ 50070

~~(b) For facilities that have a date of licensure or had a~~ 50071
~~change of ownership during the period beginning January 1, 1993,~~ 50072
~~and ending June 30, 1993, the actual, allowable capital cost basis~~ 50073
~~of the person or government entity that owns the facility on June~~ 50074
~~30, 1993.~~ 50075

~~Capital cost basis shall be calculated as provided in~~ 50076

~~division (B)(1) of this section subject to approval by the United States health care financing administration of any necessary amendment to the state plan for providing medical assistance.~~

~~The department shall include the actual, allowable capital cost basis of assets constructed or acquired during the period beginning January 1, 1993, and ending June 30, 1993, in the calculation for the facility's rate effective July 1, 1993, if the aggregate capital costs of the assets would increase the facility's rate by twenty or more cents per resident per day and the facility provides the department with sufficient documentation of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the documentation.~~

~~(2) Except as provided in division (B)(4)(3) of this section, for purposes of calculating the rates to be paid for fiscal years beginning after June 30, 1994, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, 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 50108
in the capital cost basis of the asset if the providers are 50109
related parties or the provider to which the interest is 50110
transferred authorizes the provider that transferred the interest 50111
to continue to operate the facility under a lease, management 50112
agreement, or other arrangement. If the ~~providers are not related~~ 50113
~~parties or if they are related parties and division (B)(5) of this~~ 50114
~~section requires~~ previous sentence does not prohibit the 50115
adjustment of the capital cost basis under this division, the 50116
basis of the asset shall be adjusted by the lesser of the 50117
following: 50118

(a) One-half of the change in construction costs during the 50119
time that the transferor held the asset, as calculated by the 50120
department of job and family services using the "Dodge building 50121
cost indexes, northeastern and north central states," published by 50122
Marshall and Swift; 50123

(b) One-half of the change in the consumer price index for 50124
all items for all urban consumers, as published by the United 50125
States bureau of labor statistics, during the time that the 50126
transferor held the asset. 50127

~~(5)(4)~~ (4) If a provider transfers an interest in a facility to 50128
another provider who is a related party, the capital cost basis of 50129
the asset shall be adjusted as specified in division (B)~~(4)~~(3) of 50130
this section ~~for a transfer to a provider that is not a related~~ 50131
~~party~~ if all of the following conditions are met: 50132

(a) The related party is a relative of owner; 50133

(b) Except as provided in division (B)~~(5)(4)~~(c)(ii) of this 50134
section, the provider making the transfer retains no ownership 50135
interest in the facility; 50136

(c) The department of job and family services determines that 50137
the transfer is an arm's length transaction pursuant to rules ~~the~~ 50138

~~department shall adopt in accordance with Chapter 119. adopted~~ 50139
~~under section 5111.02 of the Revised Code no later than December~~ 50140
~~31, 2000.~~ The rules shall provide that a transfer is an arm's 50141
length transaction if all of the following apply: 50142

(i) Once the transfer goes into effect, the provider that 50143
made the transfer has no direct or indirect interest in the 50144
provider that acquires the facility or the facility itself, 50145
including interest as an owner, officer, director, employee, 50146
independent contractor, or consultant, but excluding interest as a 50147
creditor. 50148

(ii) The provider that made the transfer does not reacquire 50149
an interest in the facility except through the exercise of a 50150
creditor's rights in the event of a default. If the provider 50151
reacquires an interest in the facility in this manner, the 50152
department shall treat the facility as if the transfer never 50153
occurred when the department calculates its reimbursement rates 50154
for capital costs. 50155

(iii) The transfer satisfies any other criteria specified in 50156
the rules. 50157

(d) Except in the case of hardship caused by a catastrophic 50158
event, as determined by the department, or in the case of a 50159
provider making the transfer who is at least sixty-five years of 50160
age, not less than twenty years have elapsed since, for the same 50161
facility, the capital cost basis was adjusted most recently under 50162
division (B)~~(5)~~(4) of this section or actual, allowable cost of 50163
ownership was determined most recently under division (C)(9) of 50164
this section. 50165

(C) As used in this division, ~~"lease:~~ 50166

"Imputed interest" means the lesser of the prime rate plus 50167
two per cent or ten per cent. 50168

"Lease expense" means lease payments in the case of an 50169

operating lease and depreciation expense and interest expense in 50170
the case of a capital lease. ~~As used in this division, "new~~ 50171

"New lease" means a lease, to a different lessee, of a 50172
nursing facility that previously was operated under a lease. 50173

(1) Subject to the limitation specified in division (A)(1) of 50174
this section, for a lease of a facility that was effective on May 50175
27, 1992, the entire lease expense is an actual, allowable capital 50176
~~cost of ownership~~ during the term of the existing lease. The 50177
entire lease expense also is an actual, allowable capital ~~cost of~~ 50178
~~ownership~~ if a lease in existence on May 27, 1992, is renewed 50179
under either of the following circumstances: 50180

(a) The renewal is pursuant to a renewal option that was in 50181
existence on May 27, 1992; 50182

(b) The renewal is for the same lease payment amount and 50183
between the same parties as the lease in existence on May 27, 50184
1992. 50185

(2) Subject to the limitation specified in division (A)(1) of 50186
this section, for a lease of a facility that was in existence but 50187
not operated under a lease on May 27, 1992, actual, allowable ~~cost~~ 50188
~~of ownership~~ capital costs shall include the lesser of the annual 50189
lease expense or the annual depreciation expense and imputed 50190
interest expense that would be calculated at the inception of the 50191
lease using the lessor's entire historical capital asset cost 50192
basis, adjusted by the lesser of the following amounts: 50193

(a) One-half of the change in construction costs during the 50194
time the lessor held each asset until the beginning of the lease, 50195
as calculated by the department using the "Dodge building cost 50196
indexes, northeastern and north central states," published by 50197
Marshall and Swift; 50198

(b) One-half of the change in the consumer price index for 50199
all items for all urban consumers, as published by the United 50200

States bureau of labor statistics, during the time the lessor held 50201
each asset until the beginning of the lease. 50202

(3) Subject to the limitation specified in division (A)(1) of 50203
this section, for a lease of a facility with a date of licensure 50204
on or after May 27, 1992, that is initially operated under a 50205
lease, actual, allowable ~~cost of ownership~~ capital costs shall 50206
include the annual lease expense if there was a substantial 50207
commitment of money for construction of the facility after 50208
December 22, 1992, and before July 1, 1993. If there was not a 50209
substantial commitment of money after December 22, 1992, and 50210
before July 1, 1993, actual, allowable ~~cost of ownership~~ capital 50211
costs shall include the lesser of the annual lease expense or the 50212
sum of the following: 50213

(a) The annual depreciation expense that would be calculated 50214
at the inception of the lease using the lessor's entire historical 50215
capital asset cost basis; 50216

(b) The greater of the lessor's actual annual amortization of 50217
financing costs and interest expense at the inception of the lease 50218
or the imputed interest expense calculated at the inception of the 50219
lease using seventy per cent of the lessor's historical capital 50220
asset cost basis. 50221

(4) Subject to the limitation specified in division (A)(1) of 50222
this section, for a lease of a facility with a date of licensure 50223
on or after May 27, 1992, that was not initially operated under a 50224
lease and has been in existence for ten years, actual, allowable 50225
~~cost of ownership~~ capital costs shall include the lesser of the 50226
annual lease expense or the annual depreciation expense and 50227
imputed interest expense that would be calculated at the inception 50228
of the lease using the entire historical capital asset cost basis 50229
of the lessor, adjusted by the lesser of the following: 50230

(a) One-half of the change in construction costs during the 50231

time the lessor held each asset until the beginning of the lease, 50232
as calculated by the department using the "Dodge building cost 50233
indexes, northeastern and north central states," published by 50234
Marshall and Swift; 50235

(b) One-half of the change in the consumer price index for 50236
all items for all urban consumers, as published by the United 50237
States bureau of labor statistics, during the time the lessor held 50238
each asset until the beginning of the lease. 50239

(5) Subject to the limitation specified in division (A)(1) of 50240
this section, for a new lease of a facility that was operated 50241
under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ 50242
capital costs shall include the lesser of the annual new lease 50243
expense or the annual old lease payment. If the old lease was in 50244
effect for ten years or longer, the old lease payment from the 50245
beginning of the old lease shall be adjusted by the lesser of the 50246
following: 50247

(a) One-half of the change in construction costs from the 50248
beginning of the old lease to the beginning of the new lease, as 50249
calculated by the department using the "Dodge building cost 50250
indexes, northeastern and north central states," published by 50251
Marshall and Swift; 50252

(b) One-half of the change in the consumer price index for 50253
all items for all urban consumers, as published by the United 50254
States bureau of labor statistics, from the beginning of the old 50255
lease to the beginning of the new lease. 50256

(6) Subject to the limitation specified in division (A)(1) of 50257
this section, for a new lease of a facility that was not in 50258
existence or that was in existence but not operated under a lease 50259
on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs 50260
shall include the lesser of annual new lease expense or the annual 50261
amount calculated for the old lease under division (C)(2), (3), 50262

(4), or (6) of this section, as applicable. If the old lease was 50263
in effect for ten years or longer, the lessor's historical capital 50264
asset cost basis shall be adjusted by the lesser of the following 50265
for purposes of calculating the annual amount under division 50266
(C)(2), (3), (4), or (6) of this section: 50267

(a) One-half of the change in construction costs from the 50268
beginning of the old lease to the beginning of the new lease, as 50269
calculated by the department using the "Dodge building cost 50270
indexes, northeastern and north central states," published by 50271
Marshall and Swift; 50272

(b) One-half of the change in the consumer price index for 50273
all items for all urban consumers, as published by the United 50274
States bureau of labor statistics, from the beginning of the old 50275
lease to the beginning of the new lease. 50276

In the case of a lease under division (C)(3) of this section 50277
of a facility for which a substantial commitment of money was made 50278
after December 22, 1992, and before July 1, 1993, the old lease 50279
payment shall be adjusted for the purpose of determining the 50280
annual amount. 50281

(7) For any revision of a lease described in division (C)(1), 50282
(2), (3), (4), (5), or (6) of this section, or for any subsequent 50283
lease of a facility operated under such a lease, other than 50284
execution of a new lease, the portion of actual, allowable ~~cost of~~ 50285
~~ownership~~ capital costs attributable to the lease shall be the 50286
same as before the revision or subsequent lease. 50287

(8) Except as provided in division (C)(9) of this section, if 50288
a provider leases an interest in a facility to another provider 50289
who is a related party or previously operated the facility, the 50290
related party's or previous operator's actual, allowable ~~cost of~~ 50291
~~ownership~~ capital costs shall include the lesser of the annual 50292
lease expense or the reasonable cost to the lessor. 50293

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable ~~cost of ownership~~ capital costs shall include the annual lease expense, subject to the limitations specified in divisions (C)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (C)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of job and family services determines that the lease 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 is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (C)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic

event, as determined by the department, or in the case of a lessor 50324
who is at least sixty-five years of age, not less than twenty 50325
years have elapsed since, for the same facility, the capital cost 50326
basis was adjusted most recently under division (B)(5) of this 50327
section or actual, allowable ~~cost of ownership was~~ capital costs 50328
were determined most recently under division (C)(9) of this 50329
section. 50330

(10) This division does not apply to leases of specific items 50331
of equipment. 50332

(D)(1) Subject to division (D)(2) of this section, the 50333
department shall pay a provider for each of the provider's 50334
eligible nursing facility facilities an efficiency incentive that 50335
is equal to fifty per cent of the difference between the 50336
following: 50337

(a) ~~Eighty eight and sixty five one hundredths~~ Ninety-five 50338
per cent of the facility's desk-reviewed, actual, allowable, per 50339
diem ~~cost of ownership~~ capital costs; 50340

(b) ~~The applicable amount specified in division (E) of this~~ 50341
~~section~~ Ten dollars per resident per day. 50342

(2) The efficiency incentive paid to a nursing facility shall 50343
not exceed ~~the greater of the following:~~ 50344

~~(a) The efficiency incentive the facility was paid during the~~ 50345
~~fiscal year ending June 30, 1994;~~ 50346

~~(b) Three two dollars and fifty cents per resident per day,~~ 50347
~~adjusted annually for rates paid beginning July 1, 1994, for the~~ 50348
~~inflation rate for the twelve month period beginning on the first~~ 50349
~~day of July of the calendar year preceding the calendar year that~~ 50350
~~precedes the fiscal year for which the efficiency incentive is~~ 50351
~~determined and ending on the thirtieth day of the following June,~~ 50352
~~using the consumer price index for shelter costs for all urban~~ 50353

~~consumers for the north central region, as published by the United States bureau of labor statistics.~~ 50354
50355

~~(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.~~ 50356
50357
50358
50359
50360

~~(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~ 50361
50362

~~(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty four cents per patient day;~~ 50363
50364

~~(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:~~ 50365
50366

~~(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;~~ 50367
50368
50369

~~(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.~~ 50370
50371
50372

~~(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976:~~ 50373
50374

~~(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;~~ 50375
50376
50377

~~(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;~~ 50378
50379
50380
50381

~~(c) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or~~ 50382
50383

less per bed.	50384
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979:	50385
(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;	50386
(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;	50387
(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;	50388
(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;	50389
(b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed;	50390
(b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed;	50391
(b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed;	50392
(b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed;	50393
(c) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;	50394
(c) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;	50395
(c) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;	50396
(c) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;	50397
(d) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	50398
(d) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	50399
(d) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	50400
(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:	50401
(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:	50402
(a) Seven dollars and seventy four cents per patient day if the cost of construction was seven thousand six hundred twenty five dollars or more per bed;	50403
(a) Seven dollars and seventy four cents per patient day if the cost of construction was seven thousand six hundred twenty five dollars or more per bed;	50404
(a) Seven dollars and seventy four cents per patient day if the cost of construction was seven thousand six hundred twenty five dollars or more per bed;	50405
(b) Seven dollars and twenty four cents per patient day if the cost of construction was less than seven thousand six hundred twenty five dollars per bed but exceeded six thousand eight hundred dollars per bed;	50406
(b) Seven dollars and twenty four cents per patient day if the cost of construction was less than seven thousand six hundred twenty five dollars per bed but exceeded six thousand eight hundred dollars per bed;	50407
(b) Seven dollars and twenty four cents per patient day if the cost of construction was less than seven thousand six hundred twenty five dollars per bed but exceeded six thousand eight hundred dollars per bed;	50408
(b) Seven dollars and twenty four cents per patient day if the cost of construction was less than seven thousand six hundred twenty five dollars per bed but exceeded six thousand eight hundred dollars per bed;	50409
(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;	50410
(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;	50411
(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;	50412
(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;	50413

~~(d) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeded three thousand five hundred dollars per bed;~~

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~~(e) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~

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~~(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:~~

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~~(a) For facilities with construction costs less than seven thousand six hundred twenty five dollars per bed, the applicable amounts for the construction costs specified in divisions (E)(5)(b) to (c) of this section;~~

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~~(b) For facilities with construction costs of seven thousand six hundred twenty five dollars or more per bed, six dollars per patient day, provided that for 1981 and annually thereafter prior to December 22, 1992, department shall do both of the following to the six dollar amount:~~

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~~(i) Adjust the amount for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, using 1980 as the base year;~~

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~~(ii) Increase the amount, as adjusted for inflation under division (E)(6)(b)(i) of this section, by one dollar and seventy four cents.~~

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~~(7) For facilities with dates of licensure on or after January 1, 1992, seven dollars and ninety seven cents, adjusted for fluctuations in construction costs between 1991 and 1993 as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, and then increased by one dollar and~~

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~~seventy four cents.~~ 50444

~~For the fiscal year that begins July 1, 1994, each of the~~ 50445
~~amounts listed in divisions (E)(1) to (7) of this section shall be~~ 50446
~~increased by twenty five cents. For the fiscal year that begins~~ 50447
~~July 1, 1995, each of those amounts shall be increased by an~~ 50448
~~additional twenty five cents. For subsequent fiscal years, each of~~ 50449
~~those amounts, as increased for the prior fiscal year, shall be~~ 50450
~~adjusted to reflect the rate of inflation for the twelve month~~ 50451
~~period beginning on the first day of July of the calendar year~~ 50452
~~preceding the calendar year that precedes the fiscal year and~~ 50453
~~ending on the following thirtieth day of June, using the consumer~~ 50454
~~price index for shelter costs for all urban consumers for the~~ 50455
~~north central region, as published by the United States bureau of~~ 50456
~~labor statistics.~~ 50457

~~If the amount established for a nursing facility under this~~ 50458
~~division is less than the amount that applied to the facility~~ 50459
~~under division (B) of former section 5111.25 of the Revised Code,~~ 50460
~~as the former section existed immediately prior to December 22,~~ 50461
~~1992, the amount used to calculate the efficiency incentive for~~ 50462
~~the facility under division (D)(2) of this section shall be the~~ 50463
~~amount that was calculated under division (B) of the former~~ 50464
~~section.~~ 50465

~~(F) Beginning July 1, 1993, regardless of the facility's date~~ 50466
~~of licensure or the date of the nonextensive renovations, the rate~~ 50467
~~for the costs of nonextensive renovations for nursing facilities~~ 50468
~~shall be eighty five per cent of the desk reviewed, actual,~~ 50469
~~allowable, per diem, nonextensive renovation costs. This division~~ 50470
~~applies to nonextensive renovations regardless of whether they are~~ 50471
~~made by an owner or a lessee. If the tenancy of a lessee that has~~ 50472
~~made nonextensive renovations ends before the depreciation expense~~ 50473
~~for the renovation costs has been fully reported, the former~~ 50474
~~lessee shall not report the undepreciated balance as an expense.~~ 50475

~~(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:~~ 50476
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~~(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.~~ 50479
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~~(b) The provider has obtained prior approval from the department of job and family services, and if required the director of health has granted a certificate of need for the renovation under section 3702.52 of the Revised Code. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.~~ 50484
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~~(2) The payment provided for in this division is the only payment that shall be made for the costs of a nonextensive renovation. Nonextensive renovation costs shall not be included in costs of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of calculating the efficiency incentive under divisions (D) and (E) of this section.~~ 50501
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~~(G) The owner~~ (E) A provider of a nursing facility ~~operating~~ 50507
~~under a provider agreement~~ shall provide written notice to the 50508
department of job and family services at least forty-five days 50509
prior to entering into any contract of sale for the facility or 50510
voluntarily terminating participation in the ~~medical assistance~~ 50511
medicaid program. After the date on which a transaction of sale is 50512
closed, the ~~owner~~ provider shall refund to the department the 50513
amount of excess depreciation paid to the provider for the 50514
facility by the department for each year the ~~owner~~ provider has 50515
operated the facility under a provider agreement and prorated 50516
according to the number of medicaid patient days for which the 50517
~~facility~~ provider has received payment for the facility. If a 50518
nursing facility is sold after five or fewer years of operation 50519
under a provider agreement, the refund to the department shall be 50520
equal to the excess depreciation paid to the provider for the 50521
facility. If a nursing facility is sold after more than five years 50522
but less than ten years of operation under a provider agreement, 50523
the refund to the department shall equal the excess depreciation 50524
paid to the provider for the facility multiplied by twenty per 50525
cent, multiplied by the difference between ten and the number of 50526
years that the facility was operated under a provider agreement. 50527
If a nursing facility is sold after ten or more years of operation 50528
under a provider agreement, the ~~owner~~ provider shall not refund 50529
any excess depreciation to the department. The ~~owner~~ provider of a 50530
facility that is sold or that voluntarily terminates participation 50531
in the ~~medical assistance~~ medicaid program also shall refund any 50532
other amount that the department properly finds to be due after 50533
the audit conducted under this division. For the purposes of this 50534
division, "depreciation paid to the provider for the facility" 50535
means the amount paid to the provider for the nursing facility for 50536
~~cost of ownership~~ capital costs pursuant to this section less any 50537
amount paid for interest costs, amortization of financing costs, 50538
and lease expenses. For the purposes of this division, "excess 50539

depreciation" is the nursing facility's depreciated basis, which 50540
is the ~~owner's~~ provider's cost less accumulated depreciation, 50541
subtracted from the purchase price net of selling costs but not 50542
exceeding the amount of depreciation paid to the provider for the 50543
facility. 50544

A cost report shall be filed with the department within 50545
ninety days after the date on which the transaction of sale is 50546
closed or participation is voluntarily terminated. The report 50547
shall show the accumulated depreciation, the sales price, and 50548
other information required by the department. The department shall 50549
provide for a bank, trust company, or savings and loan association 50550
to hold in escrow the amount of the last two monthly payments to a 50551
provider of a nursing facility made pursuant to division (A)(1) of 50552
section 5111.22 of the Revised Code before a sale or termination 50553
of participation or, if the ~~owner~~ provider fails, within the time 50554
required by this division, to notify the department before 50555
entering into a contract of sale for the facility, the amount of 50556
the first two monthly payments made to the provider for the 50557
facility after the department learns of the contract, regardless 50558
of whether a new owner is in possession of the facility. If the 50559
amount the ~~owner~~ provider will be required to refund under this 50560
section is likely to be less than the amount of the two monthly 50561
payments otherwise put into escrow under this division, the 50562
department shall take one of the following actions instead of 50563
withholding the amount of the two monthly payments: 50564

(1) In the case of ~~an owner~~ a provider that owns other 50565
facilities that participate in the ~~medical assistance~~ medicaid 50566
program, obtain a promissory note in an amount sufficient to cover 50567
the amount likely to be refunded; 50568

(2) In the case of all other ~~owners~~ providers, withhold the 50569
amount of the last monthly payment to the provider for the nursing 50570
facility or, if the ~~owner~~ provider fails, within the time required 50571

by this division, to notify the department before entering into a 50572
contract of sale for the facility, the amount of the first monthly 50573
payment made to the provider for the facility after the department 50574
learns of the contract, regardless of whether a new owner is in 50575
possession of the facility. 50576

The department shall, within ninety days following the filing 50577
of the cost report, audit the cost report and issue an audit 50578
report to the ~~owner~~ provider. The department also may audit any 50579
other cost report that the ~~facility~~ provider has filed during the 50580
previous three years for the facility. In the audit report, the 50581
department shall state its findings and the amount of any money 50582
owed to the department by the ~~nursing facility~~ provider. The 50583
findings shall be subject to adjudication conducted in accordance 50584
with Chapter 119. of the Revised Code. No later than fifteen days 50585
after the ~~owner~~ provider agrees to a settlement, any funds held in 50586
escrow less any amounts due to the department shall be released to 50587
the ~~owner~~ provider and amounts due to the department shall be paid 50588
to the department. If the amounts in escrow are less than the 50589
amounts due to the department, the balance shall be paid to the 50590
department within fifteen days after the ~~owner~~ provider agrees to 50591
a settlement. If the department does not issue its audit report 50592
within the ninety-day period, the department shall release any 50593
money held in escrow to the ~~owner~~ provider. For the purposes of 50594
this section, a transfer of corporate stock, the merger of one 50595
corporation into another, or a consolidation does not constitute a 50596
sale. Also, a change of ownership, lease, or termination of a 50597
lease of real or personal property associated with a nursing 50598
facility does not constitute a sale if there is no change in the 50599
operator of the facility. 50600

If a nursing facility is not sold or its participation is not 50601
terminated after notice is provided to the department under this 50602
division, the department shall order any payments held in escrow 50603

released to the ~~facility~~ provider upon receiving written notice 50604
from the ~~owner~~ provider that there will be no sale or termination. 50605
After written notice is received from a ~~nursing facility~~ provider 50606
that a sale or termination will not take place, the ~~facility~~ 50607
provider shall provide notice to the department at least 50608
forty-five days prior to entering into any contract of sale or 50609
terminating participation at any future time. 50610

~~(H) The department shall pay each eligible proprietary 50611
nursing facility a return on the facility's net equity computed at 50612
the rate of one and one half times the average interest rate on 50613
special issues of public debt obligations issued to the federal 50614
hospital insurance trust fund for the cost reporting period, 50615
except that no facility's return on net equity shall exceed fifty 50616
cents per patient day. 50617~~

~~When calculating the rate for return on net equity, the 50618
department shall use the greater of the facility's inpatient days 50619
during the applicable cost reporting period or the number of 50620
inpatient days the facility would have had during that period if 50621
its occupancy rate had been ninety five per cent. 50622~~

~~(I) If a nursing facility would receive a lower rate for 50623
capital costs for assets in the facility's possession on July 1, 50624
1993, under this section than it would receive under former 50625
section 5111.25 of the Revised Code, as the former section existed 50626
immediately prior to December 22, 1992, the facility shall receive 50627
for those assets the rate it would have received under the former 50628
section for each fiscal year beginning on or after July 1, 1993, 50629
until the rate it would receive under this section exceeds the 50630
rate it would have received under the former section. Any facility 50631
that receives a rate calculated under the former section 5111.25 50632
of the Revised Code for assets in the facility's possession on 50633
July 1, 1993, also shall receive a rate calculated under this 50634
section for costs of any assets it constructs or acquires after 50635~~

July 1, 1993. 50636

Sec. 5111.251. (A) The department of job and family services 50637
shall pay a provider for each of the provider's eligible 50638
intermediate care ~~facility~~ facilities for the mentally retarded 50639
for its reasonable capital costs, a per resident per day rate 50640
established prospectively each fiscal year for each intermediate 50641
care facility for the mentally retarded. Except as otherwise 50642
provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 50643
Code, the rate shall be based on the facility's capital costs for 50644
the calendar year preceding the fiscal year in which the rate will 50645
be paid. The rate shall equal the sum of the following: 50646

(1) The facility's desk-reviewed, actual, allowable, per diem 50647
cost of ownership for the preceding cost reporting period, limited 50648
as provided in divisions (C) and (F) of this section; 50649

(2) Any efficiency incentive determined under division (B) of 50650
this section; 50651

(3) Any amounts for renovations determined under division (D) 50652
of this section; 50653

(4) Any amounts for return on equity determined under 50654
division (I) of this section. 50655

Buildings shall be depreciated using the straight line method 50656
over forty years or over a different period approved by the 50657
department. Components and equipment shall be depreciated using 50658
the straight line method over a period designated by the director 50659
of job and family services in rules adopted ~~in accordance with~~ 50660
~~Chapter 119.~~ under section 5111.02 of the Revised Code, consistent 50661
with the guidelines of the American hospital association, or over 50662
a different period approved by the department of job and family 50663
services. Any rules ~~adopted under~~ authorized by this division that 50664
specify useful lives of buildings, components, or equipment apply 50665

only to assets acquired on or after July 1, 1993. Depreciation for 50666
costs paid or reimbursed by any government agency shall not be 50667
included in costs of ownership or renovation unless that part of 50668
the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the 50669
Revised Code is used to reimburse the government agency. 50670

(B) The department of job and family services shall pay to a 50671
provider for each of the provider's eligible intermediate care 50672
~~facility~~ facilities for the mentally retarded an efficiency 50673
incentive equal to fifty per cent of the difference between any 50674
desk-reviewed, actual, allowable cost of ownership and the 50675
applicable limit on cost of ownership payments under division (C) 50676
of this section. For purposes of computing the efficiency 50677
incentive, depreciation for costs paid or reimbursed by any 50678
government agency shall be considered as a cost of ownership, and 50679
the applicable limit under division (C) of this section shall 50680
apply both to facilities with more than eight beds and facilities 50681
with eight or fewer beds. The efficiency incentive paid to a 50682
provider for a facility with eight or fewer beds shall not exceed 50683
three dollars per patient day, adjusted annually for the inflation 50684
rate for the twelve-month period beginning on the first day of 50685
July of the calendar year preceding the calendar year that 50686
precedes the fiscal year for which the efficiency incentive is 50687
determined and ending on the thirtieth day of the following June, 50688
using the consumer price index for shelter costs for all urban 50689
consumers for the north central region, as published by the United 50690
States bureau of labor statistics. 50691

(C) Cost of ownership payments ~~to~~ for intermediate care 50692
facilities for the mentally retarded with more than eight beds 50693
shall not exceed the following limits: 50694

(1) For facilities with dates of licensure prior to January 50695
1, 1958, not exceeding two dollars and fifty cents per patient 50696
day; 50697

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:	50698 50699
(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	50700 50701 50702
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	50703 50704 50705
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	50706 50707
(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;	50708 50709 50710
(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;	50711 50712 50713 50714
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	50715 50716 50717
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	50718 50719
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	50720 50721 50722
(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;	50723 50724 50725 50726
(c) Three dollars and fifty cents per patient day if the cost	50727

of construction was five thousand one hundred fifty dollars or 50728
less per bed, but exceeds three thousand five hundred dollars per 50729
bed; 50730

(d) Two dollars and fifty cents per patient day if the cost 50731
of construction was three thousand five hundred dollars or less 50732
per bed. 50733

(5) For facilities with dates of licensure after December 31, 50734
1978, but prior to January 1, 1980, not exceeding: 50735

(a) Six dollars per patient day if the cost of construction 50736
was seven thousand six hundred twenty-five dollars or more per 50737
bed; 50738

(b) Five dollars and fifty cents per patient day if the cost 50739
of construction was less than seven thousand six hundred 50740
twenty-five dollars per bed but exceeds six thousand eight hundred 50741
dollars per bed; 50742

(c) Four dollars and fifty cents per patient day if the cost 50743
of construction was six thousand eight hundred dollars or less per 50744
bed but exceeds five thousand one hundred fifty dollars per bed; 50745

(d) Three dollars and fifty cents per patient day if the cost 50746
of construction was five thousand one hundred fifty dollars or 50747
less but exceeds three thousand five hundred dollars per bed; 50748

(e) Two dollars and fifty cents per patient day if the cost 50749
of construction was three thousand five hundred dollars or less 50750
per bed. 50751

(6) For facilities with dates of licensure after December 31, 50752
1979, but prior to January 1, 1981, not exceeding: 50753

(a) Twelve dollars per patient day if the beds were 50754
originally licensed as residential facility beds by the department 50755
of mental retardation and developmental disabilities; 50756

(b) Six dollars per patient day if the beds were originally 50757

licensed as nursing home beds by the department of health. 50758

(7) For facilities with dates of licensure after December 31, 50759
1980, but prior to January 1, 1982, not exceeding: 50760

(a) Twelve dollars per patient day if the beds were 50761
originally licensed as residential facility beds by the department 50762
of mental retardation and developmental disabilities; 50763

(b) Six dollars and forty-five cents per patient day if the 50764
beds were originally licensed as nursing home beds by the 50765
department of health. 50766

(8) For facilities with dates of licensure after December 31, 50767
1981, but prior to January 1, 1983, not exceeding: 50768

(a) Twelve dollars per patient day if the beds were 50769
originally licensed as residential facility beds by the department 50770
of mental retardation and developmental disabilities; 50771

(b) Six dollars and seventy-nine cents per patient day if the 50772
beds were originally licensed as nursing home beds by the 50773
department of health. 50774

(9) For facilities with dates of licensure after December 31, 50775
1982, but prior to January 1, 1984, not exceeding: 50776

(a) Twelve dollars per patient day if the beds were 50777
originally licensed as residential facility beds by the department 50778
of mental retardation and developmental disabilities; 50779

(b) Seven dollars and nine cents per patient day if the beds 50780
were originally licensed as nursing home beds by the department of 50781
health. 50782

(10) For facilities with dates of licensure after December 50783
31, 1983, but prior to January 1, 1985, not exceeding: 50784

(a) Twelve dollars and twenty-four cents per patient day if 50785
the beds were originally licensed as residential facility beds by 50786

the department of mental retardation and developmental disabilities; 50787
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(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 50789
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(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding: 50792
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(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; 50794
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(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 50798
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(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding: 50801
50802

(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; 50803
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(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 50806
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(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding: 50809
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(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; 50811
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(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the 50815
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department of health. 50817

(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; 50818
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(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; 50821
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(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; 50824
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(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; 50827
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(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; 50830
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(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day. 50833
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(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive 50836
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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:

(1) At least five years have elapsed since the date of
licensure or date of an extensive renovation of the portion of the
facility that is proposed to be renovated, except that this
condition does not apply if the renovation is necessary to meet
the requirements of federal, state, or local statutes, ordinances,
rules, or policies.

(2) The provider has obtained prior approval from the
department of job and family services. The provider shall submit a
plan that describes in detail the changes in capital assets to be
accomplished by means of the renovation and the timetable for
completing the project. The time for completion of the project
shall be no more than eighteen months after the renovation begins.
The director of job and family services shall adopt rules ~~in~~
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised
Code that specify criteria and procedures for prior approval of
renovation projects. No provider shall separate a project with the
intent to evade the characterization of the project as a
renovation or as an extensive renovation. No provider shall
increase the scope of a project after it is approved by the
department of job and family services unless the increase in scope

is approved by the department. 50879

(E) The amounts specified in divisions (C) and (D) of this 50880
section shall be adjusted beginning July 1, 1993, for the 50881
estimated inflation for the twelve-month period beginning on the 50882
first day of July of the calendar year preceding the calendar year 50883
that precedes the fiscal year for which rate will be paid and 50884
ending on the thirtieth day of the following June, using the 50885
consumer price index for shelter costs for all urban consumers for 50886
the north central region, as published by the United States bureau 50887
of labor statistics. 50888

(F)(1) For facilities of eight or fewer beds that have dates 50889
of licensure or have been granted project authorization by the 50890
department of mental retardation and developmental disabilities 50891
before July 1, 1993, and for facilities of eight or fewer beds 50892
that have dates of licensure or have been granted project 50893
authorization after that date if the providers of the facilities 50894
demonstrate that they made substantial commitments of funds on or 50895
before that date, cost of ownership shall not exceed eighteen 50896
dollars and thirty cents per resident per day. The eighteen-dollar 50897
and thirty-cent amount shall be increased by the change in the 50898
"Dodge building cost indexes, northeastern and north central 50899
states," published by Marshall and Swift, during the period 50900
beginning June 30, 1990, and ending July 1, 1993, and by the 50901
change in the consumer price index for shelter costs for all urban 50902
consumers for the north central region, as published by the United 50903
States bureau of labor statistics, annually thereafter. 50904

(2) For facilities with eight or fewer beds that have dates 50905
of licensure or have been granted project authorization by the 50906
department of mental retardation and developmental disabilities on 50907
or after July 1, 1993, for which substantial commitments of funds 50908
were not made before that date, cost of ownership payments shall 50909
not exceed the applicable amount calculated under division (F)(1) 50910

of this section, if the department of job and family services 50911
gives prior approval for construction of the facility. If the 50912
department does not give prior approval, cost of ownership 50913
payments shall not exceed the amount specified in division (C) of 50914
this section. 50915

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 50916
section, the total payment for cost of ownership, cost of 50917
ownership efficiency incentive, and capitalized costs of 50918
renovations for an intermediate care facility for the mentally 50919
retarded with eight or fewer beds shall not exceed the sum of the 50920
limitations specified in divisions (C) and (D) of this section. 50921

(G) Notwithstanding any provision of this section or section 50922
5111.24 of the Revised Code, the director of job and family 50923
services may adopt rules ~~in accordance with Chapter 119.~~ under 50924
section 5111.02 of the Revised Code that provide for a calculation 50925
of a combined maximum payment limit for indirect care costs and 50926
cost of ownership for intermediate care facilities for the 50927
mentally retarded with eight or fewer beds. 50928

(H) After June 30, 1980, the ~~owner~~ provider of an 50929
intermediate care facility for the mentally retarded ~~operating~~ 50930
~~under a provider agreement~~ shall provide written notice to the 50931
department of job and family services at least forty-five days 50932
prior to entering into any contract of sale for the facility or 50933
voluntarily terminating participation in the ~~medical assistance~~ 50934
medicaid program. After the date on which a transaction of sale is 50935
closed, the ~~owner~~ provider shall refund to the department the 50936
amount of excess depreciation paid to the provider for the 50937
facility by the department for each year the ~~owner~~ provider has 50938
operated the facility under a provider agreement and prorated 50939
according to the number of medicaid patient days for which the 50940
~~facility~~ provider has received payment for the facility. If an 50941
intermediate care facility for the mentally retarded is sold after 50942

five or fewer years of operation under a provider agreement, the 50943
refund to the department shall be equal to the excess depreciation 50944
paid to the provider for the facility. If an intermediate care 50945
facility for the mentally retarded is sold after more than five 50946
years but less than ten years of operation under a provider 50947
agreement, the refund to the department shall equal the excess 50948
depreciation paid to the provider for the facility multiplied by 50949
twenty per cent, multiplied by the number of years less than ten 50950
that a facility was operated under a provider agreement. If an 50951
intermediate care facility for the mentally retarded is sold after 50952
ten or more years of operation under a provider agreement, the 50953
~~owner~~ provider shall not refund any excess depreciation to the 50954
department. For the purposes of this division, "depreciation paid 50955
to the provider for the facility" means the amount paid to the 50956
provider for the intermediate care facility for the mentally 50957
retarded for cost of ownership pursuant to this section less any 50958
amount paid for interest costs. For the purposes of this division, 50959
"excess depreciation" is the intermediate care facility for the 50960
mentally retarded's depreciated basis, which is the ~~owner's~~ 50961
provider's cost less accumulated depreciation, subtracted from the 50962
purchase price but not exceeding the amount of depreciation paid 50963
to the provider for the facility. 50964

A cost report shall be filed with the department within 50965
ninety days after the date on which the transaction of sale is 50966
closed or participation is voluntarily terminated for an 50967
intermediate care facility for the mentally retarded subject to 50968
this division. The report shall show the accumulated depreciation, 50969
the sales price, and other information required by the department. 50970
The department shall provide for a bank, trust company, or savings 50971
and loan association to hold in escrow the amount of the last two 50972
monthly payments to the provider of an intermediate care facility 50973
for the mentally retarded made pursuant to division (A)(1) of 50974
section 5111.22 of the Revised Code before a sale or voluntary 50975

termination of participation or, if the ~~owner~~ provider fails, 50976
within the time required by this division, to notify the 50977
department before entering into a contract of sale for the 50978
facility, the amount of the first two monthly payments made to the 50979
provider for the facility after the department learns of the 50980
contract, regardless of whether a new owner is in possession of 50981
the facility. If the amount the ~~owner~~ provider will be required to 50982
refund under this section is likely to be less than the amount of 50983
the two monthly payments otherwise put into escrow under this 50984
division, the department shall take one of the following actions 50985
instead of withholding the amount of the two monthly payments: 50986

(1) In the case of ~~an owner~~ a provider that owns other 50987
facilities that participate in the ~~medical assistance~~ medicaid 50988
program, obtain a promissory note in an amount sufficient to cover 50989
the amount likely to be refunded; 50990

(2) In the case of all other ~~owners~~ providers, withhold the 50991
amount of the last monthly payment to the provider for the 50992
intermediate care facility for the mentally retarded or, if the 50993
~~owner~~ provider fails, within the time required by this division, 50994
to notify the department before entering into a contract of sale 50995
for the facility, the amount of the first monthly payment made to 50996
the provider for the facility after the department learns of the 50997
contract, regardless of whether a new owner is in possession of 50998
the facility. 50999

The department shall, within ninety days following the filing 51000
of the cost report, audit the report and issue an audit report to 51001
the ~~owner~~ provider. The department also may audit any other cost 51002
reports for the facility that have been filed during the previous 51003
three years. In the audit report, the department shall state its 51004
findings and the amount of any money owed to the department by the 51005
~~intermediate care facility for the mentally retarded~~ provider. The 51006
findings shall be subject to an adjudication conducted in 51007

accordance with Chapter 119. of the Revised Code. No later than 51008
fifteen days after the ~~owner~~ provider agrees to a settlement, any 51009
funds held in escrow less any amounts due to the department shall 51010
be released to the ~~owner~~ provider and amounts due to the 51011
department shall be paid to the department. If the amounts in 51012
escrow are less than the amounts due to the department, the 51013
balance shall be paid to the department within fifteen days after 51014
the ~~owner~~ provider agrees to a settlement. If the department does 51015
not issue its audit report within the ninety-day period, the 51016
department shall release any money held in escrow to the ~~owner~~ 51017
provider. For the purposes of this section, a transfer of 51018
corporate stock, the merger of one corporation into another, or a 51019
consolidation does not constitute a sale. Also, a change of 51020
ownership, lease, or termination of a lease of real or personal 51021
property associated with an intermediate care facility for the 51022
mentally retarded does not constitute a sale if there is no change 51023
in the operator of the facility. 51024

If an intermediate care facility for the mentally retarded is 51025
not sold or its participation is not terminated after notice is 51026
provided to the department under this division, the department 51027
shall order any payments held in escrow released to the ~~facility~~ 51028
provider upon receiving written notice from the ~~owner~~ provider 51029
that there will be no sale or termination of participation. After 51030
written notice is received from ~~an intermediate care facility for~~ 51031
~~the mentally retarded~~ a provider that a sale or termination of 51032
participation will not take place, the ~~facility~~ provider shall 51033
provide notice to the department at least forty-five days prior to 51034
entering into any contract of sale or terminating participation at 51035
any future time. 51036

(I) The department of job and family services shall pay a 51037
provider for each of the provider's eligible proprietary 51038
intermediate care ~~facility~~ facilities for the mentally retarded a 51039

return on the facility's net equity computed at the rate of one 51040
and one-half times the average of interest rates on special issues 51041
of public debt obligations issued to the federal hospital 51042
insurance trust fund for the cost reporting period. No facility's 51043
return on net equity paid under this division shall exceed one 51044
dollar per patient day. 51045

In calculating the rate for return on net equity, the 51046
department shall use the greater of the facility's inpatient days 51047
during the applicable cost reporting period or the number of 51048
inpatient days the facility would have had during that period if 51049
its occupancy rate had been ninety-five per cent. 51050

(J)(1) Except as provided in division (J)(2) of this section, 51051
if a provider leases or transfers an interest in a facility to 51052
another provider who is a related party, the related party's 51053
allowable cost of ownership shall include the lesser of the 51054
following: 51055

(a) The annual lease expense or actual cost of ownership, 51056
whichever is applicable; 51057

(b) The reasonable cost to the lessor or provider making the 51058
transfer. 51059

(2) If a provider leases or transfers an interest in a 51060
facility to another provider who is a related party, regardless of 51061
the date of the lease or transfer, the related party's allowable 51062
cost of ownership shall include the annual lease expense or actual 51063
cost of ownership, whichever is applicable, subject to the 51064
limitations specified in divisions (B) to (I) of this section, if 51065
all of the following conditions are met: 51066

(a) The related party is a relative of owner; 51067

(b) In the case of a lease, if the lessor retains any 51068
ownership interest, it is, except as provided in division 51069
(J)(2)(d)(ii) of this section, in only the real property and any 51070

improvements on the real property; 51071

(c) In the case of a transfer, the provider making the 51072
transfer retains, except as provided in division (J)(2)(d)(iv) of 51073
this section, no ownership interest in the facility; 51074

(d) The department of job and family services determines that 51075
the lease or transfer is an arm's length transaction pursuant to 51076
~~rules the department shall adopt in accordance with Chapter 119.~~ 51077
~~adopted under section 5111.02 of the Revised Code no later than~~ 51078
~~December 31, 2000.~~ The rules shall provide that a lease or 51079
transfer is an arm's length transaction if all of the following, 51080
as applicable, apply: 51081

(i) In the case of a lease, once the lease goes into effect, 51082
the lessor has no direct or indirect interest in the lessee or, 51083
except as provided in division (J)(2)(b) of this section, the 51084
facility itself, including interest as an owner, officer, 51085
director, employee, independent contractor, or consultant, but 51086
excluding interest as a lessor. 51087

(ii) In the case of a lease, the lessor does not reacquire an 51088
interest in the facility except through the exercise of a lessor's 51089
rights in the event of a default. If the lessor reacquires an 51090
interest in the facility in this manner, the department shall 51091
treat the facility as if the lease never occurred when the 51092
department calculates its reimbursement rates for capital costs. 51093

(iii) In the case of a transfer, once the transfer goes into 51094
effect, the provider that made the transfer has no direct or 51095
indirect interest in the provider that acquires the facility or 51096
the facility itself, including interest as an owner, officer, 51097
director, employee, independent contractor, or consultant, but 51098
excluding interest as a creditor. 51099

(iv) In the case of a transfer, the provider that made the 51100
transfer does not reacquire an interest in the facility except 51101

through the exercise of a creditor's rights in the event of a 51102
default. If the provider reacquires an interest in the facility in 51103
this manner, the department shall treat the facility as if the 51104
transfer never occurred when the department calculates its 51105
reimbursement rates for capital costs. 51106

(v) The lease or transfer satisfies any other criteria 51107
specified in the rules. 51108

(e) Except in the case of hardship caused by a catastrophic 51109
event, as determined by the department, or in the case of a lessor 51110
or provider making the transfer who is at least sixty-five years 51111
of age, not less than twenty years have elapsed since, for the 51112
same facility, allowable cost of ownership was determined most 51113
recently under this division. 51114

Sec. 5111.254. (A) The department of job and family services 51115
shall establish initial rates for a nursing facility with a first 51116
date of licensure that is on or after July 1, 2007, including a 51117
facility that replaces one or more existing facilities, or for a 51118
nursing facility with a first date of licensure before that date 51119
that was initially certified for the medicaid program on or after 51120
that date, in the following manner: 51121

(1) The rate for direct care costs shall be determined as 51122
follows: 51123

(a) If there are no cost or resident assessment data as 51124
necessary to calculate a rate under section 5111.231 of the 51125
Revised Code, the rate shall be the median cost per case-mix unit 51126
calculated under division (B)(1) of that section for the relevant 51127
peer group for the calendar year preceding the fiscal year in 51128
which the rate will be paid, multiplied by the median annual 51129
average case-mix score for the peer group for that period and by 51130
the rate of inflation estimated under division (B)(3) of that 51131

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 data that qualifies for use in calculating a case-mix score in accordance with rules authorized by division (D) of section 5111.232 of the Revised Code. If the facility's first two quarterly submissions do not contain assessment data that qualifies for use in calculating a case-mix score, the department shall continue to calculate the rate using the median annual case-mix score for the peer group in lieu of an assigned quarterly 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 data 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 51163
taxes under that section for the facility's peer group as 51164
specified in division (E) of section 5111.24 of the Revised Code. 51165

(B) The department shall adjust the rates established under 51166
division (A) of this section at both of the following times: 51167

(1) Effective the first day of July, to reflect new rate 51168
calculations for all nursing facilities under sections 5111.20 to 51169
5111.33 of the Revised Code; 51170

(2) Following the provider's submission of the nursing 51171
facility's cost report under division (A)(1)(b) of section 5111.26 51172
of the Revised Code. 51173

The department shall pay the rate adjusted based on the cost 51174
report beginning the first day of the calendar quarter that begins 51175
more than ninety days after the department receives the cost 51176
report. 51177

Sec. 5111.255. (A) The department of job and family services 51178
shall establish initial rates for ~~a nursing facility or an~~ 51179
intermediate care facility for the mentally retarded with a first 51180
date of licensure that is on or after January 1, 1993, including a 51181
facility that replaces one or more existing facilities, or for ~~a~~ 51182
~~nursing facility or an~~ intermediate care facility for the mentally 51183
retarded with a first date of licensure before that date that was 51184
initially certified for the ~~medical assistance~~ medicaid program on 51185
or after that date, in the following manner: 51186

(1) The rate for direct care costs shall be determined as 51187
follows: 51188

(a) If there are no cost or resident assessment data as 51189
necessary to calculate a rate under section 5111.23 of the Revised 51190
Code, the rate shall be the median cost per case-mix unit 51191
calculated under division (B)(1) of that section for the relevant 51192

peer group for the calendar year preceding the fiscal year in 51193
which the rate will be paid, multiplied by the median annual 51194
average case-mix score for the peer group for that period and by 51195
the rate of inflation estimated under division (B)~~(5)~~(3) of that 51196
section. This rate shall be recalculated to reflect the facility's 51197
actual quarterly average case-mix score, in accordance with that 51198
section, after it submits its first quarterly assessment 51199
~~information data~~ data that qualifies for use in calculating a case-mix 51200
score in accordance with rules ~~adopted under~~ authorized by 51201
division (D) of section ~~5111.231~~ 5111.232 of the Revised Code. If 51202
the facility's first two quarterly submissions do not contain 51203
assessment ~~information data~~ data that qualifies for use in calculating 51204
a case-mix score, the department shall continue to calculate the 51205
rate using the median annual case-mix score for the peer group in 51206
lieu of an assigned quarterly case-mix score. The department shall 51207
assign a case-mix score or, if necessary, a cost per case-mix unit 51208
under division (C) of section ~~5111.231~~ 5111.232 of the Revised 51209
Code for any subsequent submissions that do not contain assessment 51210
~~information data~~ data that qualifies for use in calculating a case-mix 51211
score. 51212

(b) If the facility is a replacement facility and the 51213
facility or facilities that are being replaced are in operation 51214
immediately before the replacement facility opens, the rate shall 51215
be the same as the rate for the replaced facility or facilities, 51216
proportionate to the number of beds in each replaced facility. If 51217
one or more of the replaced facilities is not in operation 51218
immediately before the replacement facility opens, its proportion 51219
shall be determined under division (A)(1)(a) of this section. 51220

(2) The rate for other protected costs shall be one hundred 51221
fifteen per cent of the median rate for ~~the applicable type of~~ 51222
~~facility~~ intermediate care facilities for the mentally retarded 51223
calculated for the fiscal year under section 5111.235 of the 51224

Revised Code. 51225

(3) The rate for indirect care costs shall be the applicable 51226
maximum rate for the facility's peer group as specified in 51227
division (B) of section ~~5111.24~~ or ~~division (B) of section~~ 51228
5111.241 of the Revised Code. 51229

(4) The rate for capital costs shall be determined under 51230
section ~~5111.25~~ or 5111.251 of the Revised Code using the greater 51231
of actual inpatient days or an imputed occupancy rate of eighty 51232
per cent. 51233

(B) The department shall adjust the rates established under 51234
division (A) of this section at both of the following times: 51235

(1) Effective the first day of July, to reflect new rate 51236
calculations for all facilities under sections ~~5111.23~~ 5111.20 to 51237
~~5111.25~~ and ~~5111.251~~ 5111.33 of the Revised Code; 51238

(2) Following the ~~facility's~~ provider's submission of ~~its~~ the 51239
facility's cost report under division (A)(1)(b) of section 5111.26 51240
of the Revised Code. 51241

The department shall pay the rate adjusted based on the cost 51242
report beginning the first day of the calendar quarter that begins 51243
more than ninety days after the department receives the cost 51244
report. 51245

Sec. 5111.256. (A) This section applies to a nursing facility 51246
that undergoes a change of provider that the department of job and 51247
family services determines, in accordance with rules adopted under 51248
section 5111.02 of the Revised Code, is an arm's length 51249
transaction. 51250

(B) Except as provided in division (C) of this section, the 51251
department of job and family services shall pay an eligible 51252
nursing facility that undergoes a change of provider the same rate 51253
as the facility received on the day before the change of provider. 51254

(C) The rate for capital costs for a nursing facility that 51255
undergoes a change of provider shall be determined under section 51256
5111.25 of the Revised Code using projected capital costs if the 51257
new provider provides the department the projected capital costs. 51258

(D) The department shall adjust the rates established under 51259
this section at both of the following times: 51260

(1) Effective the first day of July, to reflect new rate 51261
calculations for all nursing facilities under sections 5111.20 to 51262
5111.33 of the Revised Code; 51263

(2) Following the nursing facility's submission of its cost 51264
report under division (A)(1)(b) of section 5111.26 of the Revised 51265
Code. 51266

The department shall pay the rate adjusted based on the cost 51267
report beginning the first day of the calendar quarter that begins 51268
more than ninety days after the department receives the cost 51269
report. 51270

Sec. 5111.257. If a provider of a nursing facility adds or 51271
replaces one or more medicaid certified beds to or at the nursing 51272
facility, or renovates one or more of the nursing facility's beds 51273
at a cost of twenty-six thousand dollars or more per bed, the rate 51274
for the added, replaced, or renovated beds shall be the same as 51275
the rate for the nursing facility's existing beds, except that the 51276
department of job and family services shall calculate the rate for 51277
capital costs under section 5111.25 of the Revised Code using 51278
projected capital costs for the added, replaced, or renovated beds 51279
if the provider provides the department the projected capital 51280
costs. 51281

Sec. ~~5111.257~~ 5111.258. (A) Notwithstanding sections ~~5111.23,~~ 51282
~~5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and~~ 51283
~~5111.255~~ 5111.20 to 5111.33 of the Revised Code, the director of 51284

job and family services shall adopt rules ~~in accordance with~~ 51285
~~Chapter 119. under section 5111.02~~ of the Revised Code that 51286
establish a methodology for calculating the prospective rates ~~for~~ 51287
~~direct care costs, other protected costs, indirect care costs, and~~ 51288
~~capital costs~~ that will be paid each fiscal year to a provider for 51289
each of the provider's eligible nursing facilities and 51290
intermediate care facilities for the mentally retarded, and 51291
discrete units of the provider's nursing facilities or 51292
intermediate care facilities for the mentally retarded, that serve 51293
residents who have diagnoses or special care needs that require 51294
direct care resources that are not measured adequately by the 51295
applicable assessment instrument specified in rules ~~adopted under~~ 51296
authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or 51297
who have diagnoses or special care needs specified in the rules as 51298
otherwise qualifying for consideration under this section. The 51299
facilities and units of facilities whose rates are established 51300
under this division may include, but shall not be limited to, any 51301
of the following: 51302

(1) In the case of nursing facilities, facilities and units 51303
of facilities that serve medically fragile pediatric residents, 51304
residents who are dependent on ventilators, or residents who have 51305
severe traumatic brain injury, end-stage Alzheimer's disease, or 51306
end-stage acquired immunodeficiency syndrome; 51307

(2) In the case of intermediate care facilities for the 51308
mentally retarded, facilities and units of facilities that serve 51309
residents who have complex medical conditions or severe behavioral 51310
problems. 51311

The department shall use the methodology established under 51312
this division to pay for services rendered by such facilities and 51313
units after June 30, 1993. 51314

The rules ~~adopted under~~ authorized by this division shall 51315
specify the criteria and procedures the department will apply when 51316

designating facilities and units that qualify for calculation of 51317
rates under this division. The criteria shall include 51318
consideration of whether all of the allowable costs of the 51319
facility or unit would be paid by rates established under sections 51320
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 51321
~~and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall 51322
establish a minimum bed size for a facility or unit to qualify to 51323
have its rates established under this division. The criteria shall 51324
not be designed to require that residents be served only in 51325
facilities located in large cities. The methodology established by 51326
the rules shall consider the historical costs of providing care to 51327
the residents of the facilities or units. 51328

The rules may require that a facility designated under this 51329
division or containing a unit designated under this division 51330
receive authorization from the department to admit or retain a 51331
resident to the facility or unit and shall specify the criteria 51332
and procedures the department will apply when granting that 51333
authorization. 51334

Notwithstanding any other provision of sections 5111.20 to 51335
~~5111.32~~ 5111.33 of the Revised Code, the costs incurred by 51336
facilities or units whose rates are established under this 51337
division shall not be considered in establishing payment rates for 51338
other facilities or units. 51339

(B) The director may adopt rules ~~in accordance with Chapter~~ 51340
~~119.~~ under section 5111.02 of the Revised Code under which the 51341
department, notwithstanding any other provision of sections 51342
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, may adjust the 51343
rates determined under sections ~~5111.23~~ 5111.20 to 5111.255 51344
5111.33 of the Revised Code for a facility that serves a resident 51345
who has a diagnosis or special care need that, in the rules 51346
~~adopted under~~ authorized by division (A) of this section, would 51347
qualify a facility or unit of a facility to have its rate 51348

determined under that division, but who is not in such a unit. The 51349
rules may require that a facility that qualifies for a rate 51350
adjustment under this division receive authorization from the 51351
department to admit or retain a resident who qualifies the 51352
facility for the rate adjustment and shall specify the criteria 51353
and procedures the department will apply when granting that 51354
authorization. 51355

Sec. 5111.26. (A)(1)(a) Except as provided in division 51356
(A)(1)(b) of this section, each ~~nursing facility and intermediate~~ 51357
~~care facility for the mentally retarded~~ provider shall file with 51358
the department of job and family services an annual cost report 51359
prepared for each of the provider's nursing facilities and 51360
intermediate care facilities for the mentally retarded that 51361
participate in the medicaid program. A provider shall prepare the 51362
reports in accordance with guidelines established by the 51363
department. ~~The~~ A report shall cover a calendar year or the 51364
portion of a calendar year during which the facility participated 51365
in the ~~medical assistance~~ medicaid program. ~~All facilities~~ A 51366
provider shall file the reports within ninety days after the end 51367
of the calendar year. The department, for good cause, may grant a 51368
fourteen-day extension of the time for filing cost reports upon 51369
written request from a ~~facility~~ provider. The director of job and 51370
family services shall prescribe, in rules adopted ~~in accordance~~ 51371
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, the 51372
cost reporting form and a uniform chart of accounts for the 51373
purpose of cost reporting, and shall distribute cost reporting 51374
forms or computer software for electronic submission of the cost 51375
report to each ~~nursing facility and intermediate care facility for~~ 51376
~~the mentally retarded~~ provider at least sixty days before the 51377
~~facility's~~ reporting date. 51378

(b) ~~A facility for which~~ If rates are for a provider's 51379
nursing facility or intermediate care facility for the mentally 51380

retarded were most recently established under section 5111.254 or 51381
5111.255 of the Revised Code, the provider shall submit a cost 51382
report for that facility no later than ninety days after the end 51383
of the facility's first three full calendar months of operation. A 51384
The provider of a facility that opens after the first day of 51385
October in any calendar year is not required to file a cost report 51386
for that calendar year. If rates for a provider's nursing facility 51387
were most recently established under section 5111.256 of the 51388
Revised Code, the provider shall submit a cost report for that 51389
facility not later than ninety days after the end of the 51390
facility's first three full calendar months of operation after the 51391
change of provider. 51392

(c) If a nursing facility undergoes a change of provider that 51393
the department determines, in accordance with rules adopted under 51394
section 5111.02 of the Revised Code, is not an arms length 51395
transaction, the new provider shall file a cost report under 51396
division (A)(1)(a) of this section for the facility. The cost 51397
report shall cover the portion of the calendar year during which 51398
the new provider operated the nursing facility and the portion of 51399
the calendar year during which the previous provider operated the 51400
nursing facility. 51401

(2) If a nursing facility or intermediate care facility for 51402
the mentally retarded provider required to submit a cost reports 51403
report for a nursing facility or intermediate care facility for 51404
the mentally retarded does not file the reports report within the 51405
required time periods period or within fourteen days thereafter if 51406
an extension is granted under division (A)(1)(a) of this section, 51407
or files an incomplete or inadequate report for the facility, the 51408
department shall provide immediate written notice to the facility 51409
provider that its the provider agreement for the facility will be 51410
terminated in thirty days unless the facility provider submits a 51411
complete and adequate cost report for the facility within thirty 51412

days. During the thirty-day termination period or any additional 51413
time allowed for an appeal of the proposed termination of a 51414
provider agreement, the ~~facility~~ provider shall be paid ~~its~~ the 51415
facility's then current per resident per day rate, minus two 51416
dollars. On July 1, 1994, the department shall adjust the 51417
two-dollar reduction to reflect the rate of inflation during the 51418
preceding twelve months, as shown in the consumer price index for 51419
all items for all urban consumers for the north central region, 51420
published by the United States bureau of labor statistics. On July 51421
1, 1995, and the first day of July of each year thereafter, the 51422
department shall adjust the amount of the reduction in effect 51423
during the previous twelve months to reflect the rate of inflation 51424
during the preceding twelve months, as shown in the same index. 51425

(B) No ~~nursing facility or intermediate care facility for the~~ 51426
~~mentally retarded~~ provider shall report fines paid under sections 51427
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 51428
cost report filed under this section. 51429

(C) The department shall develop an addendum to the cost 51430
report form that a ~~nursing facility or intermediate care facility~~ 51431
~~for the mentally retarded~~ provider may use to set forth costs that 51432
the ~~facility~~ provider believes may be disputed by the department. 51433
Any costs reported by the ~~facility~~ provider on the addendum may be 51434
considered by the department in setting the facility's rate. If 51435
the department does not consider the costs listed on the addendum 51436
in setting the facility's rate, the ~~facility~~ provider may seek 51437
reconsideration of that determination under section 5111.29 of the 51438
Revised Code. If the department subsequently includes the costs 51439
listed in the addendum in the facility's rate, the department 51440
shall pay the ~~facility~~ provider interest at a reasonable rate 51441
established in rules adopted ~~in accordance with Chapter 119.~~ under 51442
section 5111.02 of the Revised Code for the time that the rate 51443
paid excluded the costs. 51444

Sec. 5111.261. Except as otherwise provided in ~~sections~~ 51445
~~5111.262 to section~~ 5111.264 of the Revised Code, the department 51446
of job and family services, in determining whether an intermediate 51447
care facility for the mentally retarded's direct care costs and 51448
indirect care costs are allowable, shall place no limit on 51449
specific categories of reasonable costs other than compensation of 51450
owners, compensation of relatives of owners, compensation of 51451
administrators and costs for resident meals that are prepared and 51452
consumed outside the facility. 51453

Compensation cost limits for owners and relatives of owners 51454
shall be based on compensation costs for individuals who hold 51455
comparable positions but who are not owners or relatives of 51456
owners, as reported on facility cost reports. As used in this 51457
section, "comparable position" means the position that is held by 51458
the owner or the owner's relative, if that position is listed 51459
separately on the cost report form, or if the position is not 51460
listed separately, the group of positions that is listed on the 51461
cost report form and that includes the position held by the owner 51462
or the owner's relative. In the case of an owner or owner's 51463
relative who serves the facility in a capacity such as corporate 51464
officer, proprietor, or partner for which no comparable position 51465
or group of positions is listed on the cost report form, the 51466
compensation cost limit shall be based on civil service 51467
equivalents and shall be specified in rules adopted ~~by the~~ 51468
~~director of job and family services in accordance with Chapter~~ 51469
~~119.~~ under section 5111.02 of the Revised Code. 51470

Compensation cost limits for administrators shall be based on 51471
compensation costs for administrators who are not owners or 51472
relatives of owners, as reported on facility cost reports. 51473
Compensation cost limits for administrators of four or more 51474
intermediate care facilities for the mentally retarded shall be 51475

the same as the limits for administrators of ~~nursing facilities or~~ 51476
intermediate care facilities for the mentally retarded with one 51477
hundred fifty or more beds. 51478

~~For nursing facilities, cost limits for resident meals that~~ 51479
~~are prepared and consumed outside the facility shall be based on~~ 51480
~~the statewide average cost of serving and preparing meals in all~~ 51481
~~nursing facilities, as reported on the facility cost reports. For~~ 51482
~~intermediate care facilities for the mentally retarded, cost~~ 51483
~~limits for resident meals that are prepared and consumed outside~~ 51484
~~the facility shall be based on the statewide average cost of~~ 51485
~~serving and preparing meals in all intermediate care facilities~~ 51486
~~for the mentally retarded, as reported on the facility cost~~ 51487
~~reports.~~ 51488

Sec. 5111.262. Except as otherwise provided in sections 51489
5111.263 and 5111.264 of the Revised Code, the department of job 51490
and family services, in determining whether a nursing facility's 51491
direct care costs and ancillary and support costs are allowable, 51492
shall place no limit on specific categories of reasonable costs. 51493

Sec. 5111.263. (A) As used in this section, "covered therapy 51494
services" means physical therapy, occupational therapy, audiology, 51495
and speech therapy services that are provided by appropriately 51496
licensed therapists or therapy assistants and that are covered for 51497
nursing facility residents either by the medicare program 51498
established under Title XVIII of the "Social Security Act," 49 51499
Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the ~~medical~~ 51500
~~assistance~~ medicaid program as specified in rules adopted by the 51501
director of job and family services ~~in accordance with Chapter~~ 51502
~~119.~~ under section 5111.02 of the Revised Code. 51503

(B) Except as provided in division (G) of this section, the 51504
costs of therapy are not allowable costs for nursing facilities 51505

for the purpose of determining rates under sections ~~5111.23,~~ 51506
~~5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 51507
~~5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code. 51508

(C) The department of job and family services shall process 51509
no claims for payment under the ~~medical assistance~~ medicaid 51510
program for covered therapy services rendered to a resident of a 51511
nursing facility other than such claims submitted, in accordance 51512
with this section, by a nursing facility that has a valid provider 51513
agreement with the department. 51514

(D) ~~Nursing Providers of nursing facilities that have entered~~ 51515
~~into a provider agreement~~ may bill the department of job and 51516
family services for covered therapy services ~~it provides the~~ 51517
nursing facilities provide to residents of any nursing facility 51518
who are medicaid recipients ~~of the medical assistance program~~ and 51519
not eligible for the medicare program. 51520

(E) The department shall not process any claim for a covered 51521
therapy service provided to a nursing facility resident who is 51522
eligible for the medicare program unless the claim is for a 51523
copayment or deductible or the conditions in division (E)(1) or 51524
(2) of this section apply: 51525

(1) The covered therapy service provided is, under the 51526
federal statutes, regulations, or policies governing the medicare 51527
program, not covered by the medicare program and the service is, 51528
under the provisions of this chapter or the rules adopted under 51529
this chapter, covered by the ~~medical assistance~~ medicaid program. 51530

(2) All of the following apply: 51531

(a) The individual or entity who provided the covered therapy 51532
service was eligible to bill the medicare program for the service. 51533

(b) A complete, accurate, and timely claim was submitted to 51534
the medicare program and the program denied payment for the 51535

service as not medically necessary for the resident. For the 51536
purposes of division (E)(2)(b) of this section, a claim is not 51537
considered to have been denied by the medicare program until 51538
either a denial has been issued following a medicare fair hearing 51539
or six months have elapsed since the request for a fair hearing 51540
was filed. 51541

(c) The facility is required to provide or arrange for the 51542
provision of the service by a licensed therapist or therapy 51543
assistant to be in compliance with federal or state nursing 51544
facility certification requirements for the ~~medical assistance~~ 51545
medicaid program. 51546

(d) The claim for payment for the services under the ~~medical~~ 51547
~~assistance~~ medicaid program is accompanied by documentation that 51548
divisions (E)(2)(b) and (c) of this section apply to the service. 51549

(F) The reimbursement allowed by the department for covered 51550
therapy services provided to nursing facility residents and billed 51551
under division (D) or (E) of this section shall be fifteen per 51552
cent less than the fees it pays for the same services rendered to 51553
hospital outpatients. The director may adopt rules ~~in accordance~~ 51554
~~with Chapter 119.~~ under section 5111.02 of the Revised Code 51555
establishing comparable fees for covered therapy services that are 51556
not included in its schedule of fees paid for services rendered to 51557
hospital outpatients. 51558

(G) A nursing facility's reasonable costs for rehabilitative, 51559
restorative, or maintenance therapy services rendered to facility 51560
residents by nurses or nurse aides, and the facility's overhead 51561
costs to support provision of therapy services provided to nursing 51562
facility residents, are allowable costs for the purposes of 51563
establishing rates under sections ~~5111.23, 5111.231, 5111.235,~~ 51564
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 51565
5111.20 to 5111.33 of the Revised Code. 51566

Sec. 5111.264. Except as provided in section 5111.25 or 5111.264 5111.251 of the Revised Code, the costs of goods, services, and facilities, furnished to a provider by a related party are includable in the allowable costs of the provider at the reasonable cost to the related party.

Sec. 5111.265. If one or more medicaid-certified beds are relocated from one nursing facility to another nursing facility owned by a different person or government entity and the application for the certificate of need authorizing the relocation is filed with the director of health on or after the effective date of this section, amortization of the cost of acquiring operating rights for the relocated beds is not an allowable cost for the purpose of determining the nursing facility's medicaid reimbursement rate.

Sec. 5111.266. As used in this section, "franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code.

A provider of a nursing facility filing the facility's cost report with the department of job and family services under section 5111.26 of the Revised Code shall report as a nonreimbursable expense the cost of the nursing facility's franchise permit fee.

Sec. 5111.27. (A) The department of job and family services shall conduct a desk review of each cost report it receives under section 5111.26 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider of whether any of ~~its~~ the reported

costs are preliminarily determined not to be allowable, the rate 51596
calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of 51597
the Revised Code that results from that determination, and the 51598
reasons for the determination and resulting rate. The department 51599
shall allow the ~~facility~~ provider to verify the calculation and 51600
submit additional information. 51601

(B) The department may conduct an audit, as defined by rule 51602
~~adopted by the director of job and family services in accordance~~ 51603
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, of 51604
any cost report and shall notify the ~~nursing facility or~~ 51605
~~intermediate care facility for the mentally retarded~~ provider of 51606
its findings. 51607

Audits shall be conducted by auditors under contract with or 51608
employed by the department. The decision whether to conduct an 51609
audit and the scope of the audit, which may be a desk or field 51610
audit, shall be determined based on prior performance of the 51611
provider and may be based on a risk analysis or other evidence 51612
that gives the department reason to believe that the provider has 51613
reported costs improperly. A desk or field audit may be performed 51614
annually, but is required whenever a provider does not pass the 51615
risk analysis tolerance factors. The department shall issue the 51616
audit report no later than three years after the cost report is 51617
filed, or upon the completion of a desk or field audit on the 51618
report or a report for a subsequent cost reporting period, 51619
whichever is earlier. During the time within which the department 51620
may issue an audit report, the provider may amend the cost report 51621
upon discovery of a material error or material additional 51622
information. The department shall review the amended cost report 51623
for accuracy and notify the provider of its determination. 51624

The department may establish a contract for the auditing of 51625
facilities by outside firms. Each contract entered into by bidding 51626
shall be effective for one to two years. The department shall 51627

establish an audit manual and program which shall require that all 51628
field audits, conducted either pursuant to a contract or by 51629
department employees: 51630

(1) Comply with the applicable rules prescribed pursuant to 51631
Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 51632
(1935), 42 U.S.C.A. 301, as amended; 51633

(2) Consider generally accepted auditing standards prescribed 51634
by the American institute of certified public accountants; 51635

(3) Include a written summary as to whether the costs 51636
included in the report examined during the audit are allowable and 51637
are presented fairly in accordance with generally accepted 51638
accounting principles and department rules, and whether, in all 51639
material respects, allowable costs are documented, reasonable, and 51640
related to patient care; 51641

(4) Are conducted by accounting firms or auditors who, during 51642
the period of the auditors' professional engagement or employment 51643
and during the period covered by the cost reports, do not have nor 51644
are committed to acquire any direct or indirect financial interest 51645
in the ownership, financing, or operation of a nursing facility or 51646
intermediate care facility for the mentally retarded in this 51647
state; 51648

(5) Are conducted by accounting firms or auditors who, as a 51649
condition of the contract or employment, shall not audit any 51650
facility that has been a client of the firm or auditor; 51651

(6) Are conducted by auditors who are otherwise independent 51652
as determined by the standards of independence established by the 51653
American institute of certified public accountants; 51654

(7) Are completed within the time period specified by the 51655
department; 51656

(8) Provide to the ~~nursing facility or intermediate care~~ 51657

~~facility for the mentally retarded~~ provider complete written 51658
interpretations that explain in detail the application of all 51659
relevant contract provisions, regulations, auditing standards, 51660
rate formulae, and departmental policies, with explanations and 51661
examples, that are sufficient to permit the ~~facility~~ provider to 51662
calculate with reasonable certainty those costs that are allowable 51663
and the rate to which the provider's facility is entitled. 51664

For the purposes of division (B)(4) of this section, 51665
employment of a member of an auditor's family by a nursing 51666
facility or intermediate care facility for the mentally retarded 51667
that the auditor does not review does not constitute a direct or 51668
indirect financial interest in the ownership, financing, or 51669
operation of the facility. 51670

(C) The department, pursuant to rules adopted ~~in accordance~~ 51671
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, may 51672
conduct an exception review of assessment ~~information~~ data 51673
submitted under section ~~5111.231~~ 5111.232 of the Revised Code. The 51674
department may conduct an exception review based on the findings 51675
of a certification survey conducted by the department of health, a 51676
risk analysis, or prior performance of the provider. 51677

Exception reviews shall be conducted at the facility by 51678
appropriate health professionals under contract with or employed 51679
by the department of job and family services. The professionals 51680
may review resident assessment forms and supporting documentation, 51681
conduct interviews, and observe residents to identify any patterns 51682
or trends of inaccurate assessments and resulting inaccurate 51683
case-mix scores. 51684

The rules shall establish an exception review program that 51685
requires that exception reviews do all of the following: 51686

(1) Comply with Titles XVIII and XIX of the "Social Security 51687
Act"; 51688

(2) Provide a written summary that states whether the resident assessment forms have been completed accurately;

(3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(4) Are conducted by health professionals who, as a condition 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~~ data 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 51720
case-mix ~~information~~ data. Where the ~~facility~~ provider is pursuing 51721
judicial or administrative remedies in good faith regarding the 51722
disallowance or finding, the department shall not withhold from 51723
the ~~facility's~~ provider's current payments any amounts the 51724
department claims to be due from the ~~facility~~ provider pursuant to 51725
section 5111.28 of the Revised Code. 51726

(E) The department shall not reduce rates calculated under 51727
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on 51728
the basis that the ~~facility~~ provider charges a lower rate to any 51729
resident who is not eligible for the ~~medical assistance~~ medicaid 51730
program. 51731

(F) The department shall adjust the rates calculated under 51732
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to 51733
account for reasonable additional costs that must be incurred by 51734
nursing facilities and intermediate care facilities for the 51735
mentally retarded to comply with requirements of federal or state 51736
statutes, rules, or policies enacted or amended after January 1, 51737
1992, or with orders issued by state or local fire authorities. 51738

Sec. 5111.28. (A) If a provider properly amends its cost 51739
report under section 5111.27 of the Revised Code and the amended 51740
report shows that the provider received a lower rate under the 51741
original cost report than it was entitled to receive, the 51742
department of job and family services shall adjust the provider's 51743
rate prospectively to reflect the corrected information. The 51744
department shall pay the adjusted rate beginning two months after 51745
the first day of the month after the provider files the amended 51746
cost report. If the department finds, from an exception review of 51747
resident assessment information conducted after the effective date 51748
of the rate for direct care costs that is based on the assessment 51749
information, that inaccurate assessment information resulted in 51750

the provider receiving a lower rate than it was entitled to 51751
receive, the department prospectively shall adjust the provider's 51752
rate accordingly and shall make payments using the adjusted rate 51753
for the remainder of the calendar quarter for which the assessment 51754
information is used to determine the rate, beginning one month 51755
after the first day of the month after the exception review is 51756
completed. 51757

(B) If the provider properly amends its cost report under 51758
section 5111.27 of the Revised Code, the department makes a 51759
finding based on an audit under that section, or the department 51760
makes a finding based on an exception review of resident 51761
assessment information conducted under that section after the 51762
effective date of the rate for direct care costs that is based on 51763
the assessment information, any of which results in a 51764
determination that the provider has received a higher rate than it 51765
was entitled to receive, the department shall recalculate the 51766
provider's rate using the revised information. The department 51767
shall apply the recalculated rate to the periods when the provider 51768
received the incorrect rate to determine the amount of the 51769
overpayment. The provider shall refund the amount of the 51770
overpayment. 51771

In addition to requiring a refund under this division, the 51772
department may charge the provider interest at the applicable rate 51773
specified in this division from the time the overpayment was made. 51774

(1) If the overpayment resulted from costs reported for 51775
calendar year 1993, the interest shall be no greater than one and 51776
one-half times the average bank prime rate. 51777

(2) If the overpayment resulted from costs reported for 51778
subsequent calendar years: 51779

(a) The interest shall be no greater than two times the 51780
average bank prime rate if the overpayment was equal to or less 51781

than one per cent of the total medicaid payments to the provider 51782
for the fiscal year for which the incorrect information was used 51783
to establish a rate. 51784

(b) The interest shall be no greater than two and one-half 51785
times the current average bank prime rate if the overpayment was 51786
greater than one per cent of the total medicaid payments to the 51787
provider for the fiscal year for which the incorrect information 51788
was used to establish a rate. 51789

(C) The department also may impose the following penalties: 51790

(1) If a provider does not furnish invoices or other 51791
documentation that the department requests during an audit within 51792
sixty days after the request, no more than the greater of one 51793
thousand dollars per audit or twenty-five per cent of the 51794
cumulative amount by which the costs for which documentation was 51795
not furnished increased the total medicaid payments to the 51796
provider during the fiscal year for which the costs were used to 51797
establish a rate; 51798

(2) If an owner fails to provide notice of sale of the 51799
facility or voluntary termination of participation in the ~~medical~~ 51800
~~assistance~~ medicaid program, as required by section 5111.25 or 51801
5111.251 of the Revised Code, no more than the current average 51802
bank prime rate plus four per cent of the last two monthly 51803
payments. 51804

(D) If the provider continues to participate in the ~~medical~~ 51805
~~assistance~~ medicaid program, the department shall deduct any 51806
amount that the provider is required to refund under this section, 51807
and the amount of any interest charged or penalty imposed under 51808
this section, from the next available payment from the department 51809
to the provider. The department and the provider may enter into an 51810
agreement under which the amount, together with interest, is 51811
deducted in installments from payments from the department to the 51812

provider. 51813

(E) The department shall transmit refunds and penalties to 51814
the treasurer of state for deposit in the general revenue fund. 51815

(F) For the purpose of this section, the department shall 51816
determine the average bank prime rate using statistical release 51817
H.15, "selected interest rates," a weekly publication of the 51818
federal reserve board, or any successor publication. If 51819
statistical release H.15, or its successor, ceases to contain the 51820
bank prime rate information or ceases to be published, the 51821
department shall request a written statement of the average bank 51822
prime rate from the federal reserve bank of Cleveland or the 51823
federal reserve board. 51824

Sec. 5111.29. (A) The director of job and family services 51825
shall adopt rules ~~in accordance with Chapter 119.~~ under section 51826
5111.02 of the Revised Code that establish a process under which a 51827
~~nursing facility or intermediate care facility for the mentally~~ 51828
~~retarded~~ provider, or a group or association of ~~facilities~~ 51829
providers, may seek reconsideration of rates established under 51830
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, 51831
including a rate for direct care costs recalculated before the 51832
effective date of the rate as a result of an exception review of 51833
resident assessment information conducted under section 5111.27 of 51834
the Revised Code. 51835

(1) Except as provided in divisions (A)(2) to (4) of this 51836
section, the only issue that a ~~facility~~ provider, group, or 51837
association may raise in the rate reconsideration shall be whether 51838
the rate was calculated in accordance with sections ~~5111.23~~ 51839
5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules 51840
adopted under ~~those sections~~ section 5111.02 of the Revised Code. 51841
The rules shall permit a ~~facility~~ provider, group, or association 51842
to submit written arguments or other materials that support its 51843

position. The rules shall specify time frames within which the 51844
facility provider, group, or association and the department must 51845
act. If the department determines, as a result of the rate 51846
reconsideration, that the rate established for one or more 51847
facilities of a provider is less than the rate to which ~~it~~ the 51848
facility is entitled, the department shall increase the rate. If 51849
the department has paid the incorrect rate for a period of time, 51850
the department shall pay the ~~facility~~ provider the difference 51851
between the amount ~~it~~ the provider was paid for that period for 51852
the facility and the amount ~~it~~ the provider should have been paid 51853
for the facility. 51854

(2) The rules shall provide that during a fiscal year, the 51855
department, by means of the rate reconsideration process, may 51856
increase a facility's rate as calculated under sections ~~5111.23~~ 51857
~~5111.20 to 5111.28~~ 5111.33 of the Revised Code if the provider of 51858
the facility demonstrates that ~~its~~ the facility's actual, 51859
allowable costs have increased because of extreme circumstances. A 51860
facility may qualify for a rate increase only if ~~its~~ the 51861
facility's per diem, actual, allowable costs have increased to a 51862
level that exceeds its total rate, including any efficiency or 51863
quality incentive and return on equity payment. The rules shall 51864
specify the circumstances that would justify a rate increase under 51865
division (A)(2) of this section. ~~In the case of nursing~~ 51866
~~facilities, the~~ The rules shall provide that the extreme 51867
circumstances include ~~increased security costs for an inner-city~~ 51868
~~nursing facility and an increase in workers' compensation~~ 51869
~~experience rating of greater than five per cent for a facility~~ 51870
~~that has an appropriate claims management program but do not~~ 51871
~~include a change of ownership that results from bankruptcy,~~ 51872
~~foreclosure, or findings of violations of certification~~ 51873
~~requirements by the department of health~~ natural disasters. In the 51874
case of intermediate care facilities for the mentally retarded, 51875
the rules shall provide that the extreme circumstances include, 51876

but are not limited to, renovations approved under division (D) of 51877
section 5111.251 of the Revised Code, an increase in workers' 51878
compensation experience rating of greater than five per cent for a 51879
facility that has an appropriate claims management program, 51880
increased security costs for an inner-city facility, and a change 51881
of ownership that results from bankruptcy, foreclosure, or 51882
findings of violations of certification requirements by the 51883
department of health. An increase under division (A)(2) of this 51884
section is subject to any rate limitations or maximum rates 51885
established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the 51886
Revised Code for specific cost centers. Any rate increase granted 51887
under division (A)(2) of this section shall take effect on the 51888
first day of the first month after the department receives the 51889
request. 51890

(3) The rules shall provide that the department, through the 51891
rate reconsideration process, may increase ~~a facility's~~ an 51892
intermediate care facility for the mentally retarded's rate as 51893
calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of 51894
the Revised Code if the department, in ~~its~~ the department's sole 51895
discretion, determines that the rate as calculated under those 51896
sections works an extreme hardship on the facility. 51897

(4) The rules shall provide that when beds certified for the 51898
~~medical assistance~~ medicaid program are added to an existing 51899
intermediate care facility for the mentally retarded, replaced at 51900
the same site, or subject to a change of ownership or lease, the 51901
department, through the rate reconsideration process, shall 51902
increase the ~~facility's~~ intermediate care facility for the 51903
mentally retarded's rate for capital costs proportionately, as 51904
limited by any applicable limitation under section ~~5111.25~~ or 51905
5111.251 of the Revised Code, to account for the costs of the beds 51906
that are added, replaced, or subject to a change of ownership or 51907
lease. The department shall make this increase one month after the 51908

first day of the month after the department receives sufficient 51909
documentation of the costs. Any rate increase granted under 51910
division (A)(4) of this section after June 30, 1993, shall remain 51911
in effect until the effective date of a rate calculated under 51912
section ~~5111.25~~ or 5111.251 of the Revised Code that includes 51913
costs incurred for a full calendar year for the bed addition, bed 51914
replacement, or change of ownership or lease. The facility shall 51915
report double accumulated depreciation in an amount equal to the 51916
depreciation included in the rate adjustment on its cost report 51917
for the first year of operation. During the term of any loan used 51918
to finance a project for which a rate adjustment is granted under 51919
division (A)(4) of this section, if the facility is operated by 51920
the same provider, the ~~facility~~ provider shall subtract from the 51921
interest costs it reports on its cost report an amount equal to 51922
the difference between the following: 51923

(a) The actual, allowable interest costs for the loan during 51924
the calendar year for which the costs are being reported; 51925

(b) The actual, allowable interest costs attributable to the 51926
loan that were used to calculate the rates paid to the provider 51927
for the facility during the same calendar year. 51928

(5) The department's decision at the conclusion of the 51929
reconsideration process shall not be subject to any administrative 51930
proceedings under Chapter 119. or any other provision of the 51931
Revised Code. 51932

(B) Any audit disallowance that the department makes as the 51933
result of an audit under section 5111.27 of the Revised Code, any 51934
adverse finding that results from an exception review of resident 51935
assessment information conducted under that section after the 51936
effective date of the facility's rate that is based on the 51937
assessment information, and any penalty the department imposes 51938
under division (C) of section 5111.28 of the Revised Code shall be 51939
subject to an adjudication conducted in accordance with Chapter 51940

119. of the Revised Code. 51941

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.29~~ 51942
5111.33 of the Revised Code, the department of job and family 51943
services may compute the rate for intermediate care facilities for 51944
the mentally retarded operated by the department of mental 51945
retardation and developmental disabilities or the department of 51946
mental health according to the reasonable cost principles of Title 51947
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 51948
U.S.C.A. 1395, as amended. 51949

Sec. 5111.30. The department of job and family services shall 51950
terminate the provider agreement with a ~~nursing facility or~~ 51951
~~intermediate care facility for the mentally retarded~~ provider that 51952
does not comply with the requirements of section 3721.071 of the 51953
Revised Code for the installation of fire extinguishing and fire 51954
alarm systems. 51955

Sec. 5111.31. (A) Every provider agreement with the provider 51956
of a nursing facility or intermediate care facility for the 51957
mentally retarded shall: 51958

(1) Prohibit the ~~facility~~ provider from failing or refusing 51959
to retain as a patient any person because the person is, becomes, 51960
or may, as a patient in the facility, become a medicaid recipient 51961
~~of assistance under the medical assistance program~~. For the 51962
purposes of this division, a medicaid recipient ~~of medical~~ 51963
~~assistance~~ who is a patient in a facility shall be considered a 51964
patient in the facility during any hospital stays totaling less 51965
than twenty-five days during any twelve-month period. Recipients 51966
who have been identified by the department of job and family 51967
services or its designee as requiring the level of care of an 51968
intermediate care facility for the mentally retarded shall not be 51969
subject to a maximum period of absences during which they are 51970

considered patients if prior authorization of the department for 51971
visits with relatives and friends and participation in therapeutic 51972
programs is obtained under rules adopted under section 5111.02 of 51973
the Revised Code. 51974

(2) ~~Include~~ Except as provided by division (B)(1) of this 51975
section, include any part of the facility that meets standards for 51976
certification of compliance with federal and state laws and rules 51977
for participation in the ~~medical assistance~~ medicaid program, 51978
~~except that nursing facilities that, during the period beginning~~ 51979
~~July 1, 1987, and ending July 1, 1993, added beds licensed as~~ 51980
~~nursing home beds under Chapter 3721. of the Revised Code are not~~ 51981
~~required to include those beds under a provider agreement unless~~ 51982
~~otherwise required by federal law. Once added to the provider~~ 51983
~~agreement, however, those nursing home beds may not be removed~~ 51984
~~unless the facility withdraws from the medical assistance program~~ 51985
~~in its entirety.~~ 51986

(3) Prohibit the ~~facility~~ provider from discriminating 51987
against any patient on the basis of race, color, sex, creed, or 51988
national origin. 51989

(4) Except as otherwise prohibited under section 5111.55 of 51990
the Revised Code, prohibit the ~~facility~~ provider from failing or 51991
refusing to accept a patient because the patient is, becomes, or 51992
may, as a patient in the facility, become a medicaid recipient ~~of~~ 51993
~~assistance under the medical assistance program~~ if less than 51994
eighty per cent of the patients in the facility are medicaid 51995
recipients ~~of medical assistance.~~ 51996

(B)(1) Except as provided by division (B)(2) of this section, 51997
the following are not required to be included in a provider 51998
agreement unless otherwise required by federal law: 51999

(a) Beds added during the period beginning July 1, 1987, and 52000
ending July 1, 1993, to a nursing home licensed under Chapter 52001

3721. of the Revised Code; 52002

(b) Beds in an intermediate care facility for the mentally retarded that are designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5111.87 of the Revised Code. 52003
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(2) If a provider chooses to include a bed specified in division (B)(1) of this section in a provider agreement, the bed may not be removed from the provider agreement unless the provider withdraws the facility in which the bed is located from the medicaid program. 52007
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(C) Nothing in this section shall bar ~~any~~ a provider that is a religious organization operating a religious or denominational nursing facility or intermediate care facility for the mentally retarded ~~that is operated, supervised, or controlled by a religious organization~~ from giving preference to persons of the same religion or denomination. Nothing in this section shall bar any facility provider from giving preference to persons with whom ~~it~~ the provider has contracted to provide continuing care. 52012
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~~(C)~~(D) Nothing in this section shall bar ~~any~~ the provider of a county home organized under Chapter 5155. of the Revised Code from admitting residents exclusively from the county in which the county home is located. 52020
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~~(D)~~(E) No provider of a nursing facility or intermediate care facility for the mentally retarded ~~with~~ for which a provider agreement is in effect shall violate the provider contract obligations imposed under this section. 52024
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~~(E)~~(F) Nothing in divisions (A) and ~~(B)~~(C) of this section shall bar ~~any nursing facility or intermediate care facility for the mentally retarded~~ a provider from retaining patients who have resided in the provider's facility for not less than one year as private pay patients and who subsequently become medicaid 52028
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recipients ~~of assistance under the medicaid program~~, but refusing 52033
to accept as a patient any person who is or may, as a patient in 52034
the facility, become a medicaid recipient ~~of assistance under the~~ 52035
~~medicaid program~~, if all of the following apply: 52036

(1) The facility provider does not refuse to retain any 52037
patient who has resided in the provider's facility for not less 52038
than one year as a private pay patient because the patient becomes 52039
a medicaid recipient ~~of assistance under the medicaid program~~, 52040
except as necessary to comply with division ~~(E)~~(F)(2) of this 52041
section; 52042

(2) The number of medicaid recipients retained under this 52043
division does not at any time exceed ten per cent of all the 52044
patients in the facility; 52045

(3) On July 1, 1980, all the patients in the facility were 52046
private pay patients. 52047

Sec. 5111.32. Any patient has a cause of action against the 52048
provider of a nursing facility or intermediate care facility for 52049
the mentally retarded for breach of the provider agreement 52050
obligations or other duties imposed by section 5111.31 of the 52051
Revised Code. The action may be commenced by the patient, or on 52052
~~his~~ the patient's behalf by ~~his~~ the patient's sponsor or a 52053
residents' rights advocate, as either is defined under section 52054
3721.10 of the Revised Code, by the filing of a civil action in 52055
the court of common pleas of the county in which the facility is 52056
located, or in the court of common pleas of Franklin county. 52057

If the court finds that a breach of the provider agreement 52058
obligations imposed by section 5111.31 of the Revised Code has 52059
occurred, the court may enjoin the facility provider from engaging 52060
in the practice, order such affirmative relief as may be 52061
necessary, and award to the patient and a person or public agency 52062
that brings an action on behalf of a patient actual damages, 52063

costs, and reasonable attorney's fees. 52064

Sec. 5111.33. Reimbursement to ~~nursing facilities and~~ 52065
~~intermediate care facilities for the mentally retarded~~ a provider 52066
under sections 5111.20 to 5111.32 of the Revised Code shall 52067
include payments to ~~facilities~~ the provider, at a rate equal to 52068
the percentage of the per resident per day rates that the 52069
department of job and family services has established for the 52070
provider's nursing facility or intermediate care facility for the 52071
mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 52072
5111.33 of the Revised Code for the fiscal year for which the cost 52073
of services is reimbursed, to reserve a bed for a recipient during 52074
a temporary absence under conditions prescribed by the department, 52075
to include hospitalization for an acute condition, visits with 52076
relatives and friends, and participation in therapeutic programs 52077
outside the facility, when the resident's plan of care provides 52078
for such absence and federal participation in the payments is 52079
available. The maximum period during which payments may be made to 52080
reserve a bed shall not exceed the maximum period specified under 52081
federal regulations, and shall not be more than thirty days during 52082
any calendar year for hospital stays, visits with relatives and 52083
friends, and participation in therapeutic programs. Recipients who 52084
have been identified by the department as requiring the level of 52085
care of an intermediate care facility for the mentally retarded 52086
shall not be subject to a maximum period during which payments may 52087
be made to reserve a bed if prior authorization of the department 52088
is obtained for hospital stays, visits with relatives and friends, 52089
and participation in therapeutic programs. The director of job and 52090
family services shall adopt rules under ~~division (B) of~~ section 52091
5111.02 of the Revised Code establishing conditions under which 52092
prior authorization may be obtained. 52093

Sec. 5111.62. The proceeds of all fines, including interest, 52094

collected under sections 5111.35 to 5111.62 of the Revised Code 52095
shall be deposited in the state treasury to the credit of the 52096
residents protection fund, which is hereby created. ~~Moneys~~ The 52097
proceeds of all fines, including interest, collected under section 52098
173.42 of the Revised Code shall be deposited in the state 52099
treasury to the credit of the residents protection fund. 52100

Moneys in the fund shall be used for the protection of the 52101
health or property of residents of nursing facilities in which the 52102
department of health finds deficiencies, including payment for the 52103
costs of relocation of residents to other facilities, maintenance 52104
of operation of a facility pending correction of deficiencies or 52105
closure, and reimbursement of residents for the loss of money 52106
managed by the facility under section 3721.15 of the Revised Code. 52107
~~The~~ 52108

The fund shall be maintained and administered by the 52109
department of job and family services under rules developed in 52110
consultation with the departments of health and aging and adopted 52111
by the director of job and family services under Chapter 119. of 52112
the Revised Code. 52113

Sec. 5111.85. (A) As used in this section and sections 52114
5111.851 to 5111.856 of the Revised Code, "medicaid waiver 52115
component" means a component of the medicaid program authorized by 52116
a waiver granted by the United States department of health and 52117
human services under section 1115 or 1915 of the "Social Security 52118
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 52119
waiver component" does not include a care management system 52120
established under section 5111.16 of the Revised Code. 52121

(B) The director of job and family services may adopt rules 52122
under Chapter 119. of the Revised Code governing medicaid waiver 52123
components that establish all of the following: 52124

(1) Eligibility requirements for the medicaid waiver 52125

components;	52126
(2) The type, amount, duration, and scope of services the medicaid waiver components provide;	52127 52128
(3) The conditions under which the medicaid waiver components cover services;	52129 52130
(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	52131 52132
(5) The manner in which the medicaid waiver components pay for services;	52133 52134
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	52135 52136
(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.	52137 52138 52139 52140 52141 52142
(8) Other policies necessary for the efficient administration of the medicaid waiver components.	52143 52144
(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.	52145 52146 52147 52148
(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the	52149 52150 52151 52152 52153 52154 52155

~~director may establish a corrective action plan for the violator~~ 52156
~~and impose fiscal, administrative, or both types of sanctions on~~ 52157
~~the violator in accordance with rules adopted under division (B)~~ 52158
~~of this section.~~ 52159

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 52160
of the Revised Code: 52161

"Administrative agency" means, with respect to a home and 52162
community-based services medicaid waiver component, the department 52163
of job and family services or, if a state agency or political 52164
subdivision contracts with the department under section 5111.91 of 52165
the Revised Code to administer the component, that state agency or 52166
political subdivision. 52167

"Home and community-based services medicaid waiver component" 52168
means a medicaid waiver component under which home and 52169
community-based services are provided as an alternative to 52170
hospital, nursing facility, or intermediate care facility for the 52171
mentally retarded services. 52172

"Hospital" has the same meaning as in section 3727.01 of the 52173
Revised Code. 52174

"Intermediate care facility for the mentally retarded" has 52175
the same meaning as in section 5111.20 of the Revised Code. 52176

"Level of care determination" means a determination of 52177
whether an individual needs the level of care provided by a 52178
hospital, nursing facility, or intermediate care facility for the 52179
mentally retarded and whether the individual, if determined to 52180
need that level of care, would receive hospital, nursing facility, 52181
or intermediate care facility for the mentally retarded services 52182
if not for a home and community-based services medicaid waiver 52183
component. 52184

"Nursing facility" has the same meaning as in section 5111.20 52185

of the Revised Code. 52186

"Skilled nursing facility" means a facility certified as a 52187
skilled nursing facility under Title XVIII of the "Social Security 52188
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 52189

(B) The following requirements apply to each home and 52190
community-based services medicaid waiver component: 52191

(1) Only an individual who qualifies for a component shall 52192
receive that component's services. 52193

(2) A level of care determination shall be made as part of 52194
the process of determining whether an individual qualifies for a 52195
component and shall be made each year after the initial 52196
determination if, during such a subsequent year, the 52197
administrative agency determines there is a reasonable indication 52198
that the individual's needs have changed. 52199

(3) A written plan of care or individual service plan based 52200
on an individual assessment of the services that an individual 52201
needs to avoid needing admission to a hospital, nursing facility, 52202
or intermediate care facility for the mentally retarded shall be 52203
created for each individual determined eligible for a component. 52204

(4) Each individual determined eligible for a component shall 52205
receive that component's services in accordance with the 52206
individual's level of care determination and written plan of care 52207
or individual service plan. 52208

(5) No individual may receive services under a component 52209
while the individual is a hospital inpatient or resident of a 52210
skilled nursing facility, nursing facility, or intermediate care 52211
facility for the mentally retarded. 52212

(6) No individual may receive prevocational, educational, or 52213
supported employment services under a component if the individual 52214
is eligible for such services that are funded with federal funds 52215

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. 52216
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(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. 52218
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(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) requires be established if the provider fails to comply with the standards applicable to the provider. 52224
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(9) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's services, including any choices that the individual or representative may make regarding the component's services, and given the choice of either receiving services under that component or, as appropriate, hospital, nursing facility, or intermediate care facility for the mentally retarded services. 52228
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Sec. 5111.852. The department of job and family services may review and approve, modify, or deny written plans of care and individual service plans that section 5111.851 of the Revised Code requires be created for individuals determined eligible for a home and community-based services medicaid waiver component. If a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer a home and community-based services medicaid waiver component and approves, modifies, or denies a written plan of care or individual service plan pursuant to the agency's or subdivision's administration of the component, the department may review the agency's or subdivision's approval, modification, or denial and order the 52235
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agency or subdivision to reverse or modify the approval, 52247
modification, or denial. The state agency or political subdivision 52248
shall comply with the department's order. 52249

The department of job and family services shall be granted 52250
full and immediate access to any records the department needs to 52251
implement its duties under this section. 52252

Sec. 5111.853. Each administrative agency shall maintain, for 52253
a period of time the department of job and family services shall 52254
specify, financial records documenting the costs of services 52255
provided under the home and community-based services medicaid 52256
waiver components that the agency administers, including records 52257
of independent audits. The administrative agency shall make the 52258
financial records available on request to the United States 52259
secretary of health and human services, United States comptroller 52260
general, and their designees. 52261

Sec. 5111.854. Each administrative agency is financially 52262
accountable for funds expended for services provided under the 52263
home and community-based services medicaid waiver components that 52264
the agency administers. 52265

Sec. 5111.855. Each state agency and political subdivision 52266
that enters into a contract with the department of job and family 52267
services under section 5111.91 of the Revised Code to administer a 52268
home and community-based services medicaid waiver component, or 52269
one or more aspects of such a component, shall provide the 52270
department a written assurance that the agency or subdivision will 52271
not violate any of the requirements of sections 5111.85 to 52272
5111.854 of the Revised Code. 52273

Sec. 5111.856. To the extent necessary for the efficient and 52274

economical administration of medicaid waiver components, the 52275
department of job and family services may transfer an individual 52276
enrolled in a medicaid waiver component administered by the 52277
department to another medicaid waiver component the department 52278
administers if the individual is eligible for the medicaid waiver 52279
component and the transfer does not jeopardize the individual's 52280
health or safety. 52281

Sec. ~~5111.97~~ 5111.86. (A) As used in this section: 52282

(1) "Hospital" has the same meaning as in section 3727.01 of 52283
the Revised Code. 52284

(2) "Medicaid waiver component" has the same meaning as in 52285
section 5111.85 of the Revised Code. 52286

(3) "Nursing facility" has the same meaning as in section 52287
5111.20 of the Revised Code. 52288

(4) "Ohio home care program" means the program the department 52289
of job and family services administers that provides state plan 52290
services and medicaid waiver component services pursuant to rules 52291
adopted under sections 5111.01 and 5111.02 of the Revised Code and 52292
a medicaid waiver that went into effect July 1, 1998. 52293

(B) The director of job and family services may submit a 52294
~~request~~ requests to the United States secretary of health and 52295
human services pursuant to section 1915 of the "Social Security 52296
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 52297
waivers of federal medicaid requirements that would otherwise be 52298
violated in the creation and implementation of two or more 52299
medicaid wavier components under which home and community-based 52300
services ~~programs to replace the Ohio home care program being~~ 52301
~~operated pursuant to rules adopted under sections 5111.01 and~~ 52302
~~5111.02 of the Revised Code and a medicaid waiver granted prior to~~ 52303
~~the effective date of this section are provided to eligible~~ 52304

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;

(6)(4) Any other ~~requirement~~ requirements the director selects for the ~~replacement programs~~ medicaid waiver components.

(B)(C) If the secretary ~~grants~~ approves the medicaid waivers requested under this section, the director may create and implement the ~~replacement programs~~ medicaid waiver components in accordance with the provisions of the approved waivers ~~granted~~. The department of job and family services shall administer the ~~replacement programs~~ medicaid waiver components.

~~As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program.~~

After the first of any medicaid waiver components created under this section begins to enroll eligible individuals, the director may submit to the United States secretary of health and human services an amendment to a medicaid waiver component of the Ohio home care program authorizing the department to cease enrolling additional individuals in that medicaid waiver component of the Ohio home care program. If the secretary approves the amendment, the director may cease to enroll additional individuals in that medicaid waiver component of the Ohio home care program.

Sec. 5111.87. (A) As used in this section and section 5111.871 of the Revised Code, ~~"intermediate;~~

(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(B) The director of job and family services may apply to the United States secretary of health and human services for both of the following:

(1) One or more medicaid ~~waivers~~ waiver components under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care

facility for the mentally retarded; 52366

(2) One or more medicaid ~~waivers~~ waiver components under 52367
which home and community-based services are provided in the form 52368
of ~~either or both~~ any of the following: 52369

(a) Early intervention and supportive services for children 52370
under three years of age ~~that are provided or arranged by county~~ 52371
~~boards of mental retardation and~~ who have developmental delays or 52372
disabilities the director determines are significant; 52373

(b) Therapeutic services for children who have autism ~~and are~~ 52374
~~under six years of age at the time of enrollment;~~ 52375

(c) Specialized habilitative services for individuals who are 52376
eighteen years of age or older and have autism. 52377

(C) No medicaid waiver component authorized by division 52378
(B)(2)(b) or (c) of this section shall provide services that are 52379
available under another medicaid waiver component. No medicaid 52380
waiver component authorized by division (B)(2)(b) of this section 52381
shall provide services to an individual that the individual is 52382
eligible to receive through an individualized education program as 52383
defined in section 3323.01 of the Revised Code. 52384

(D) The director of mental retardation and developmental 52385
disabilities or director of health may request that the director 52386
of job and family services apply for one or more medicaid waivers 52387
under this section. 52388

~~(D)~~(E) Before applying for a waiver under this section, the 52389
director of job and family services shall seek, accept, and 52390
consider public comments. 52391

Sec. 5111.871. The department of job and family services 52392
shall enter into a contract with the department of mental 52393
retardation and developmental disabilities under section 5111.91 52394
of the Revised Code with regard to one or more of the components 52395

of the medicaid program established by the department of job and 52396
family services under one or more of the medicaid waivers sought 52397
under section 5111.87 of the Revised Code. The contract shall 52398
provide for the department of mental retardation and developmental 52399
disabilities to administer the components in accordance with the 52400
terms of the waivers. The directors of job and family services and 52401
mental retardation and developmental disabilities shall adopt 52402
rules in accordance with Chapter 119. of the Revised Code 52403
governing the components. 52404

If the department of mental retardation and developmental 52405
disabilities or the department of job and family services denies 52406
an individual's application for home and community-based services 52407
provided under any of these medicaid components, the department 52408
that denied the services shall give timely notice to the 52409
individual that the individual may request a hearing under section 52410
5101.35 of the Revised Code. 52411

The departments of mental retardation and developmental 52412
disabilities and job and family services may approve, reduce, 52413
deny, or terminate a service included in the individualized 52414
service plan developed for a medicaid recipient eligible for home 52415
and community-based services provided under any of these medicaid 52416
components. The departments shall consider the recommendations a 52417
county board of mental retardation and developmental disabilities 52418
makes under division (A)(1)(c) of section 5126.055 of the Revised 52419
Code. If either department approves, reduces, denies, or 52420
terminates a service, that department shall give timely notice to 52421
the medicaid recipient that the recipient may request a hearing 52422
under section 5101.35 of the Revised Code. 52423

If supported living or residential services, as defined in 52424
section 5126.01 of the Revised Code, are to be provided under any 52425
of these components, any person or government entity with a 52426
current, valid medicaid provider agreement and a current, valid 52427

license under section 5123.19 or certificate under section 52428
~~5123.045~~ 5123.16 or 5126.431 of the Revised Code may provide the 52429
services. 52430

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.889 of 52431
the Revised Code: 52432

"Administrative agency" means the department of job and 52433
family services or, if the department assigns the day-to-day 52434
administration of the ICF/MR deinstitutionalization waiver program 52435
to the department of mental retardation and developmental 52436
disabilities pursuant to section 5111.888 of the Revised Code, the 52437
department of mental retardation and developmental disabilities. 52438

"Deinstitutionalized services" means services specified in 52439
rules adopted under section 5111.85 of the Revised Code provided 52440
under the ICF/MR deinstitutionalization waiver program. 52441

"ICF/MR deinstitutionalization waiver program" means the 52442
medicaid waiver component authorized by a waiver sought under 52443
division (B)(1) of this section. 52444

"ICF/MR services" means intermediate care facility for the 52445
mentally retarded services covered by the medicaid program that an 52446
intermediate care facility for the mentally retarded provides to a 52447
resident of the facility who is a medicaid recipient eligible for 52448
medicaid-covered intermediate care facility for the mentally 52449
retarded services. 52450

"Intermediate care facility for the mentally retarded" has 52451
the same meaning as in section 5111.20 of the Revised Code. 52452

"Medicaid waiver component" has the same meaning as in 52453
section 5111.85 of the Revised Code. 52454

(B) Not later than January 1, 2007, the director of job and 52455
family services shall submit both of the following to the United 52456
States secretary of health and human services: 52457

(1) An application for a waiver authorizing a medicaid waiver component under which intermediate care facilities for the mentally retarded, other than such facilities operated by the department of mental retardation and developmental disabilities, convert from providing intermediate care facility for the mentally retarded services to providing deinstitutionalized services and individuals with mental retardation or a developmental disability who would receive intermediate care facility for the mentally retarded services if those services were available to the individuals receive instead deinstitutionalized services; 52458
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(2) An amendment to the state medicaid plan to do both of the following: 52468
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(a) Authorize the director, beginning on the first day that the ICF/MR deinstitutionalization waiver program begins implementation under section 5111.881 of the Revised Code, to refuse to enter into or amend a medicaid provider agreement with the operator of an intermediate care facility for the mentally retarded if the provider agreement or amendment would authorize the operator to receive medicaid payments for more intermediate care facility for the mentally retarded beds than the operator receives on the day before that day; 52470
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(b) Provide that intermediate care facility for the mentally retarded services may be provided only by intermediate care facilities for the mentally retarded operated by the department of mental retardation and developmental disabilities beginning on the date that the ICF/MR deinstitutionalization waiver program begins to be implemented statewide pursuant to section 5111.883 of the Revised Code. 52479
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(C) The director is not required to submit the application for the ICF/MR deinstitutionalization waiver program under division (B)(1) of this section and the amendment to the state 52486
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medicaid plan under division (B)(2) of this section at the same 52489
time. 52490

Sec. 5111.881. If the United States secretary of health and 52491
human services approves the waiver requested under division (B)(1) 52492
of section 5111.88 of the Revised Code, the administrative agency 52493
shall phase in the implementation of the ICF/MR 52494
deinstitutionalization waiver program by starting with an initial 52495
testing phase. During the initial testing phase, the 52496
administrative agency shall do all of the following: 52497

(A) Permit no more than two hundred individuals to 52498
participate in the program at one time; 52499

(B) Select, from among volunteers only, enough intermediate 52500
care facilities for the mentally retarded to convert from 52501
providing ICF/MR services to providing deinstitutionalized 52502
services as necessary to accommodate each individual participating 52503
in the program during the initial testing phase and ensure that 52504
the facilities selected for conversion cease to provide any ICF/MR 52505
services once the conversion takes place; 52506

(C) Subject to division (A) of this section, permit 52507
individuals who reside in an intermediate care facility for the 52508
mentally retarded that converts to providing deinstitutionalized 52509
services to choose whether to participate in the program or to 52510
transfer to another intermediate care facility for the mentally 52511
retarded that is not converting during the initial testing phase; 52512

(D) Ensure that no individual receiving ICF/MR services on 52513
the effective date of this section suffers an interruption in 52514
medicaid-covered services that the individual is eligible to 52515
receive; 52516

(E) Collect information as necessary to be able to conduct 52517
the evaluation required by section 5111.882 of the Revised Code; 52518

(F) Make adjustments to the program that the administrative agency and, if the administrative agency is not the department of job and family services, the department agree are both necessary for the program to be implemented effectively statewide and consistent with the terms of the waiver authorizing the program. 52519
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Sec. 5111.882. (A) The administrative agency shall conduct an evaluation of the ICF/MR deinstitutionalization waiver program during its initial testing phase. The administrative agency shall examine all of the following as part of the evaluation: 52524
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(1) The deinstitutionalized services' effectiveness in meeting the health and welfare needs of the individuals participating in the program as identified in the individuals' written individual service plan; 52528
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(2) The satisfaction of the individuals participating in the program with the deinstitutionalized services; 52532
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(3) The impact that the conversion from providing ICF/MR services to providing deinstitutionalized services has on the intermediate care facilities for the mentally retarded that convert during the initial testing phase; 52534
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(4) The program's cost effectiveness, including administrative cost effectiveness; 52538
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(5) Feedback about the program from the individuals participating in the program, such individuals' families and guardians, county boards of mental retardation and developmental disabilities, and providers of deinstitutionalized services; 52540
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(6) Other matters the administrative agency considers appropriate for evaluation. 52544
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(B) The administrative agency shall prepare a report of the evaluation conducted under this section and provide a copy of the report to the governor. The administrative agency shall include in 52546
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the report recommendations for changes to the ICF/MR 52549
deinstitutionalization waiver program that the administrative 52550
agency and, if the administrative agency is not the department of 52551
job and family services, the department develops as a result of 52552
the evaluation. 52553

Sec. 5111.883. (A) Subject to division (B) of this section, 52554
the initial testing phase of the ICF/MR deinstitutionalization 52555
waiver program shall end, and the program shall begin to be 52556
implemented statewide, when the administrative agency and, if the 52557
department of job and family services is not the administrative 52558
agency, the department agrees that the program can be implemented 52559
effectively statewide. 52560

(B) Before the administrative agency implements the ICF/MR 52561
deinstitutionalization waiver program statewide, the 52562
administrative agency shall seek the governor's approval. The 52563
program may not be implemented statewide without the governor's 52564
approval. 52565

Sec. 5111.884. Each individual participating in the ICF/MR 52566
deinstitutionalization waiver program shall receive 52567
deinstitutionalized services pursuant to a written individual 52568
service plan that shall be created for the individual. The 52569
individual service plan shall provide for the individual to 52570
receive deinstitutionalized services as necessary to meet the 52571
individual's health and welfare needs. 52572

Sec. 5111.885. Each individual participating in the ICF/MR 52573
deinstitutionalization waiver program has the right to choose the 52574
qualified and willing provider from which the individual will 52575
receive deinstitutionalized services. 52576

Sec. 5111.886. The administrative agency shall inform each 52577

individual participating in the ICF/MR deinstitutionalization 52578
waiver program of the individual's right to a state hearing under 52579
section 5101.35 of the Revised Code regarding a decision or order 52580
the administrative agency makes concerning the individual's 52581
participation in the program. 52582

Sec. 5111.887. The department of mental retardation and 52583
developmental disabilities may not convert any of the intermediate 52584
care facilities for the mentally retarded that the department 52585
operates to a provider of deinstitutionalized services. 52586

Sec. 5111.888. (A) If the United States secretary of health 52587
and human services approves the waiver requested under division 52588
(B)(1) of section 5111.88 of the Revised Code, the department of 52589
job and family services may do both of the following: 52590

(1) Contract with the department of mental retardation and 52591
developmental disabilities under section 5111.91 of the Revised 52592
Code to assign the day-to-day administration of the ICF/MR 52593
deinstitutionalization waiver program to the department of mental 52594
retardation and developmental disabilities; 52595

(2) Transfer funds to pay for the nonfederal share of the 52596
costs of the ICF/MR deinstitutionalization waiver program to the 52597
department of mental retardation and developmental disabilities. 52598

(B) If the department of job and family services takes both 52599
actions authorized by division (A) of this section, the department 52600
of mental retardation and developmental disabilities shall be 52601
responsible for paying the nonfederal share of the costs of the 52602
ICF/MR deinstitutionalization waiver program. 52603

Sec. 5111.889. The director of job and family services shall 52604
adopt rules under section 5111.85 of the Revised Code as necessary 52605

to implement the ICF/MR deinstitutionalization waiver program, 52606
including rules establishing both of the following: 52607

(A) The type, amount, duration, and scope of services 52608
provided under the program; 52609

(B) The amount the program pays for the services or the 52610
method by which the amount is determined. 52611

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of 52612
the Revised Code: 52613

"Assisted living program" means the medicaid waiver component 52614
for which the director of job and family services is authorized by 52615
this section to request a medicaid waiver. 52616

"Assisted living services" means the following home and 52617
community-based services: personal care, homemaker, chore, 52618
attendant care, companion, medication oversight, and therapeutic 52619
social and recreational programming. 52620

"County or district home" means a county or district home 52621
operated under Chapter 5155. of the Revised Code. 52622

"Medicaid waiver component" has the same meaning as in 52623
section 5111.85 of the Revised Code. 52624

"Nursing facility" has the same meaning as in section 5111.20 52625
of the Revised Code. 52626

"Residential care facility" has the same meaning as in 52627
section 3721.01 of the Revised Code. 52628

(B) The director of job and family services may submit a 52629
request to the United States secretary of health and human 52630
services under 42 U.S.C. 1396n to obtain a waiver of federal 52631
medicaid requirements that would otherwise be violated in the 52632
creation and implementation of a program under which assisted 52633

living services are provided to not more than one thousand eight 52634
hundred individuals who meet the program's eligibility 52635
requirements established under section 5111.891 of the Revised 52636
Code. 52637

If the secretary approves the medicaid waiver requested under 52638
this section and the director of budget and management approves 52639
the contract, the department of job and family services shall 52640
enter into a contract with the department of aging under section 52641
5111.91 of the Revised Code that provides for the department of 52642
aging to administer the assisted living program. The contract 52643
shall include an estimate of the program's costs. 52644

The director of job and family services may adopt rules under 52645
section 5111.85 of the Revised Code regarding the assisted living 52646
program. The director of aging may adopt rules under Chapter 119. 52647
of the Revised Code regarding the program that the rules adopted 52648
by the director of job and family services authorize the director 52649
of aging to adopt. 52650

Sec. 5111.891. To be eligible for the assisted living 52651
program, an individual must meet all of the following 52652
requirements: 52653

(A) Need an intermediate level of care as determined under 52654
rule 5101:3-3-06 of the Administrative Code; 52655

(B) At the time the individual applies for the assisted 52656
living program, be one of the following: 52657

(1) A nursing facility resident seeking to move to a 52658
residential care facility or county or district home; 52659

(2) A participant of any of the following medicaid waiver 52660
components who would move to a nursing facility if not for the 52661
assisted living program: 52662

(a) The PASSPORT program created under section 173.40 of the 52663

<u>Revised Code;</u>	52664
<u>(b) The medicaid waiver component called the choices program</u>	52665
<u>that the department of aging administers;</u>	52666
<u>(c) A medicaid waiver component that the department of job</u>	52667
<u>and family services administers.</u>	52668
<u>(C) At the time the individual receives assisted living</u>	52669
<u>services under the assisted living program, reside in either of</u>	52670
<u>the following:</u>	52671
<u>(1) A residential care facility, including a residential care</u>	52672
<u>facility that is owned or operated by a metropolitan housing</u>	52673
<u>authority that has a contract with the United States department of</u>	52674
<u>housing and urban development to receive an operating subsidy or</u>	52675
<u>rental assistance for the residents of the facility;</u>	52676
<u>(2) A county or district home.</u>	52677
<u>(D) Meet all other eligibility requirements for the assisted</u>	52678
<u>living program established in rules adopted under section 5111.85</u>	52679
<u>of the Revised Code.</u>	52680
<u>Sec. 5111.892. A residential care facility or county or</u>	52681
<u>district home providing services covered by the assisted living</u>	52682
<u>program to an individual enrolled in the program shall have staff</u>	52683
<u>on-site twenty-four hours each day who are able to do all of the</u>	52684
<u>following:</u>	52685
<u>(A) Meet the scheduled and unpredicted needs of the</u>	52686
<u>individuals enrolled in the assisted living program in a manner</u>	52687
<u>that promotes the individuals' dignity and independence;</u>	52688
<u>(B) Provide supervision services for those individuals;</u>	52689
<u>(C) Help keep the individuals safe and secure.</u>	52690
<u>Sec. 5111.893. If the United States secretary of health and</u>	52691

human services approves a medicaid waiver authorizing the assisted living program, the director of aging shall contract with a person or government entity to evaluate the program's cost effectiveness. The director shall provide the results of the evaluation to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives not later than June 30, 2007.

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

(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;

(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;

(D) A process for making payments to the providers;

(E) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including;

(F) Procedures for program oversight and quality assurance.

Sec. 5111.914. (A) As used in this section, "provider" has

the same meaning as in section 5111.06 of the Revised Code. 52720

(B) If a state agency that enters into a contract with the 52721
department of job and family services under section 5111.91 of the 52722
Revised Code identifies that a medicaid overpayment has been made 52723
to a provider, the state agency may commence actions to recover 52724
the overpayment on behalf of the department. 52725

(C) In recovering an overpayment pursuant to this section, a 52726
state agency shall comply with the following procedures: 52727

(1) The state agency shall attempt to recover the overpayment 52728
by notifying the provider of the overpayment and requesting 52729
voluntary repayment. Not later than five business days after 52730
notifying the provider, the state agency shall notify the 52731
department in writing of the overpayment. The state agency may 52732
negotiate a settlement of the overpayment and notify the 52733
department of the settlement. A settlement negotiated by the state 52734
agency is not valid and shall not be implemented until the 52735
department has given its written approval of the settlement. 52736

(2) If the state agency is unable to obtain voluntary 52737
repayment of an overpayment, the agency shall give the provider 52738
notice of an opportunity for a hearing in accordance with Chapter 52739
119. of the Revised Code. If the provider timely requests a 52740
hearing in accordance with section 119.07 of the Revised Code, the 52741
state agency shall conduct the hearing to determine the legal and 52742
factual validity of the overpayment. On completion of the hearing, 52743
the state agency shall submit its hearing officer's report and 52744
recommendation and the complete record of proceedings, including 52745
all transcripts, to the director of job and family services for 52746
final adjudication. The director may issue a final adjudication 52747
order in accordance with Chapter 119. of the Revised Code. The 52748
state agency shall pay any attorney's fees imposed under section 52749
119.092 of the Revised Code. The department of job and family 52750

services shall pay any attorney's fees imposed under section 52751
2335.39 of the Revised Code. 52752

(D) In any action taken by a state agency under this section 52753
that requires the agency to give notice of an opportunity for a 52754
hearing in accordance with Chapter 119. of the Revised Code, if 52755
the agency gives notice of the opportunity for a hearing but the 52756
provider subject to the notice does not request a hearing or 52757
timely request a hearing in accordance with section 119.07 of the 52758
Revised Code, the agency is not required to hold a hearing. The 52759
agency may request that the director of job and family services 52760
issue a final adjudication order in accordance with Chapter 119. 52761
of the Revised Code. 52762

(E) This section does not preclude the department of job and 52763
family services from adjudicating a final fiscal audit under 52764
section 5111.06 of the Revised Code, recovering overpayments under 52765
section 5111.061 of the Revised Code, or making findings or taking 52766
other actions authorized by this chapter. 52767

Sec. 5111.915. (A) The department of job and family services 52768
shall enter into an agreement with the department of 52769
administrative services for the department of administrative 52770
services to contract through competitive selection pursuant to 52771
section 125.05 of the Revised Code with a qualified vendor 52772
pursuant to division (B) of this section to develop a computer 52773
system to collect data. 52774

This computer system shall be used to enhance fraud and abuse 52775
detection, improve program management and budgeting, and improve 52776
performance measurement capabilities of all agencies serving 52777
medicaid recipients, including the departments of aging, alcohol 52778
and drug addiction services, health, job and family services, 52779
mental health, and mental retardation and developmental 52780
disabilities. 52781

The department of administrative services shall take all necessary steps to receive and review bids for the data system within ninety days after the effective date of this section. Also within ninety days after the effective date of this section, the department of job and family services shall seek enhanced federal funding for ninety per cent of the funds required to establish the data system.

(B) A qualified vendor with whom the department of administrative services contracts to implement the data system must have performed the following services prior to the department accepting the vendor's bid:

(1) Successfully implemented a data system in another state;

(2) Demonstrated an ability to link, at a minimum, the following data sets:

(a) Medicaid;

(b) Temporary assistance for needy families;

(c) Vital records.

Sec. ~~5111.88~~ 5111.97. (A) As used in this section and in section 5111.971 of the Revised Code, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(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.

To be eligible for benefits under the project, a medicaid	52811
recipient must satisfy all of the following requirements:	52812
(1) Be a recipient of medicaid-funded nursing facility	52813
services, at the time of applying for the benefits;	52814
(2) Have resided continuously in a nursing facility for not	52815
less than eighteen <u>six</u> months prior to applying to participate in	52816
the project;	52817
(3) Need the level of care provided by nursing facilities;	52818
(4) For participation in a non-medicaid program, receive	52819
services to remain in the community with a projected cost not	52820
exceeding eighty per cent of the average monthly medicaid cost of	52821
a medicaid recipient in a nursing facility;	52822
(5) For participation in a program established as part of a	52823
medicaid-funded home and community-based services waiver program,	52824
meet waiver enrollment criteria.	52825
(C) If the director establishes the Ohio access success	52826
project, the benefits provided under the project may include	52827
payment of all of the following:	52828
(1) The first month's rent in a community setting;	52829
(2) Rental deposits;	52830
(3) Utility deposits;	52831
(4) Moving expenses;	52832
(5) Other expenses not covered by the medicaid program that	52833
facilitate a medicaid recipient's move from a nursing facility to	52834
a community setting.	52835
(D) If the project is established as a non-medicaid program,	52836
no participant may receive more than two thousand dollars worth of	52837
benefits under the project.	52838
(E) The director may submit a request to the United States	52839

secretary of health and human services pursuant to section 1915 of 52840
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 52841
as amended, to create a medicaid home and community-based services 52842
waiver program to serve individuals who meet the criteria for 52843
participation in the Ohio access success project. The director may 52844
adopt rules under Chapter 119. of the Revised Code for the 52845
administration and operation of the program. 52846

Sec. 5111.971. (A) The director of job and family services 52847
shall submit a request to the United States secretary of health 52848
and human services for a waiver of federal medicaid requirements 52849
that would be otherwise violated in the creation of a pilot 52850
program for issuing vouchers to medicaid recipients for use by the 52851
recipients and their families or other representatives to pay for 52852
the cost of obtaining health care services outside of a nursing 52853
facility. In submitting the request, the director shall specify 52854
all of the following: 52855

(1) That the number of medicaid recipients permitted to 52856
participate in the program will not exceed two hundred; 52857

(2) That an individual will not be eligible to participate 52858
unless the individual requires a nursing facility level of care; 52859

(3) That a participant will be given a voucher in an amount 52860
not exceeding seventy-five per cent of the cost that the medicaid 52861
program would incur for care provided to the individual in a 52862
nursing facility; 52863

(4) That the services of a fiscal intermediary and other case 52864
management services will be available to the participant when 52865
needed. 52866

(B) On receipt of the waiver, the director shall enter into 52867
an interagency agreement with the director of aging to have the 52868
pilot program administered by the department of aging. Each 52869

director may adopt rules in accordance with Chapter 119. of the 52870
Revised Code as the director considers necessary to carry out the 52871
purposes of this section. 52872

Sec. 5111.98. (A) The director of job and family services may 52873
do all of the following as necessary for the department of job and 52874
family services to fulfill the duties it has, as the single state 52875
agency for the medicaid program, under the "Medicare Prescription 52876
Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 52877
108-173, 117 Stat. 2066: 52878

(1) Adopt rules; 52879

(2) Assign duties to county departments of job and family 52880
services; 52881

(3) Make payments to the United States department of health 52882
and human services from appropriations made to the department of 52883
job and family services for this purpose. 52884

(B) Rules adopted under division (A)(1) of this section shall 52885
be adopted as follows: 52886

(1) If the rules concern the department's duties regarding 52887
service providers, in accordance with Chapter 119. of the Revised 52888
Code; 52889

(2) If the rules concern the department's duties concerning 52890
individuals' eligibility for services, in accordance with section 52891
111.15 of the Revised Code; 52892

(3) If the rules concern the department's duties concerning 52893
financial and operational matters between the department and 52894
county departments of job and family services, in accordance with 52895
section 111.15 of the Revised Code as if the rules were internal 52896
management rules. 52897

Sec. 5111.99. (A) Whoever violates division (B) of section 52898

5111.26 or division ~~(D)~~(E) of section 5111.31 of the Revised Code 52899
shall be fined not less than five hundred dollars nor more than 52900
one thousand dollars for the first offense and not less than one 52901
thousand dollars nor more than five thousand dollars for each 52902
subsequent offense. Fines paid under this section shall be 52903
deposited in the state treasury to the credit of the general 52904
revenue fund. 52905

(B) Whoever violates division (D) of section 5111.61 of the 52906
Revised Code is guilty of registering a false complaint, a 52907
misdemeanor of the first degree. 52908

Sec. 5112.03. (A) The director of job and family services 52909
shall adopt, and may amend and rescind, rules in accordance with 52910
Chapter 119. of the Revised Code for the purpose of administering 52911
sections 5112.01 to 5112.21 of the Revised Code, including rules 52912
that do all of the following: 52913

(1) Define as a "disproportionate share hospital" any 52914
hospital included under subsection (b) of section 1923 of the 52915
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 52916
1396r-4(b), as amended, and any other hospital the director 52917
determines appropriate; 52918

(2) Prescribe the form for submission of cost reports under 52919
section 5112.04 of the Revised Code; 52920

(3) Establish, in accordance with division (A) of section 52921
5112.06 of the Revised Code, the assessment rate or rates to be 52922
applied to hospitals under that section; 52923

(4) Establish schedules for hospitals to pay installments on 52924
their assessments under section 5112.06 of the Revised Code and 52925
for governmental hospitals to pay installments on their 52926
intergovernmental transfers under section 5112.07 of the Revised 52927
Code; 52928

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;	52929 52930 52931
(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;	52932 52933 52934 52935 52936
(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.	52937 52938 52939
The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.	52940 52941 52942
(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:	52943 52944 52945
(1) Recipients of the medical assistance program;	52946
(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;	52947 52948
(3) Recipients of medical assistance provided under Chapter 5115. of the Revised Code;	52949 52950
(4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;	52951 52952
(5) <u>(4)</u> Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:	52953 52954 52955
(6) <u>(5)</u> Recipients of Title V of the "Social Security Act";	52956
(7) <u>(6)</u> Any other category of costs deemed appropriate by the	52957

director in accordance with Title XIX of the "Social Security Act" 52958
and the rules adopted under that title. 52959

Sec. 5112.08. The director of job and family services shall 52960
adopt rules under section 5112.03 of the Revised Code establishing 52961
a methodology to pay hospitals that is sufficient to expend all 52962
money in the indigent care pool. Under the rules: 52963

(A) The department of job and family services may classify 52964
similar hospitals into groups and allocate funds for distribution 52965
within each group. 52966

(B) The department shall establish a method of allocating 52967
funds to hospitals, taking into consideration the relative amount 52968
of indigent care provided by each hospital or group of hospitals. 52969
The amount to be allocated shall be based on any combination of 52970
the following indicators of indigent care that the director 52971
considers appropriate: 52972

(1) Total costs, volume, or proportion of services to 52973
recipients of the medical assistance program, including recipients 52974
enrolled in health insuring corporations; 52975

(2) Total costs, volume, or proportion of services to 52976
low-income patients in addition to recipients of the medical 52977
assistance program, which may include recipients of Title V of the 52978
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 52979
amended, ~~and~~ recipients of disability financial ~~or medical~~ 52980
assistance provided under Chapter 5115. of the Revised Code, and 52981
recipients of disability medical assistance formerly provided 52982
under Chapter 5115. of the Revised Code; 52983

(3) The amount of uncompensated care provided by the hospital 52984
or group of hospitals; 52985

(4) Other factors that the director considers to be 52986
appropriate indicators of indigent care. 52987

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund and the hospital care assurance match fund created under section 5112.18 of the Revised Code is insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount is insufficient. The department shall distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. 5112.17. (A) As used in this section:

(1) "Federal poverty guideline" means the official poverty

guideline as revised annually by the United States secretary of 53019
health and human services in accordance with section 673 of the 53020
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 53021
U.S.C.A. 9902, as amended, for a family size equal to the size of 53022
the family of the person whose income is being determined. 53023

(2) "Third-party payer" means any private or public entity or 53024
program that may be liable by law or contract to make payment to 53025
or on behalf of an individual for health care services. 53026
"Third-party payer" does not include a hospital. 53027

(B) Each hospital that receives funds distributed under 53028
sections 5112.01 to 5112.21 of the Revised Code shall provide, 53029
without charge to the individual, basic, medically necessary 53030
hospital-level services to individuals who are residents of this 53031
state, are not recipients of the medical assistance program, and 53032
whose income is at or below the federal poverty guideline. 53033
Recipients of disability financial assistance ~~and recipients of~~ 53034
~~disability medical assistance~~ provided under Chapter 5115. of the 53035
Revised Code qualify for services under this section. The director 53036
of job and family services shall adopt rules under section 5112.03 53037
of the Revised Code specifying the hospital services to be 53038
provided under this section. 53039

(C) Nothing in this section shall be construed to prevent a 53040
hospital from requiring an individual to apply for eligibility 53041
under the medical assistance program before the hospital processes 53042
an application under this section. Hospitals may bill any 53043
third-party payer for services rendered under this section. 53044
Hospitals may bill the medical assistance program, in accordance 53045
with Chapter 5111. of the Revised Code and the rules adopted under 53046
that chapter, for services rendered under this section if the 53047
individual becomes a recipient of the program. Hospitals may bill 53048
individuals for services under this section if all of the 53049
following apply: 53050

(1) The hospital has an established post-billing procedure 53051
for determining the individual's income and canceling the charges 53052
if the individual is found to qualify for services under this 53053
section. 53054

(2) The initial bill, and at least the first follow-up bill, 53055
is accompanied by a written statement that does all of the 53056
following: 53057

(a) Explains that individuals with income at or below the 53058
federal poverty guideline are eligible for services without 53059
charge; 53060

(b) Specifies the federal poverty guideline for individuals 53061
and families of various sizes at the time the bill is sent; 53062

(c) Describes the procedure required by division (C)(1) of 53063
this section. 53064

(3) The hospital complies with any additional rules the 53065
department adopts under section 5112.03 of the Revised Code. 53066

Notwithstanding division (B) of this section, a hospital 53067
providing care to an individual under this section is subrogated 53068
to the rights of any individual to receive compensation or 53069
benefits from any person or governmental entity for the hospital 53070
goods and services rendered. 53071

(D) Each hospital shall collect and report to the department, 53072
in the form and manner prescribed by the department, information 53073
on the number and identity of patients served pursuant to this 53074
section. 53075

(E) This section applies beginning May 22, 1992, regardless 53076
of whether the department has adopted rules specifying the 53077
services to be provided. Nothing in this section alters the scope 53078
or limits the obligation of any governmental entity or program, 53079
including the program awarding reparations to victims of crime 53080

under sections 2743.51 to 2743.72 of the Revised Code and the 53081
program for medically handicapped children established under 53082
section 3701.023 of the Revised Code, to pay for hospital services 53083
in accordance with state or local law. 53084

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 53085
Revised Code, ~~"intermediate:~~ 53086

(A) "Intermediate care facility for the mentally retarded" 53087
has the same meaning as in section 5111.20 of the Revised Code, 53088
except that it does not include any such facility operated by the 53089
department of mental retardation and developmental disabilities. 53090

(B) "Medicaid" has the same meaning as in section 5111.01 of 53091
the Revised Code. 53092

Sec. 5112.31. The department of job and family services shall 53093
do all of the following: 53094

(A) For the purpose of providing home and community-based 53095
services for mentally retarded and developmentally disabled 53096
persons, annually assess each intermediate care facility for the 53097
mentally retarded a franchise permit fee equal to nine dollars and 53098
sixty-three cents multiplied by the product of the following: 53099

(1) The number of beds certified under Title XIX of the 53100
"Social Security Act" on the first day of May of the calendar year 53101
in which the assessment is determined pursuant to division (A) of 53102
section 5112.33 of the Revised Code; 53103

(2) The number of days in the fiscal year beginning on the 53104
first day of July of the same calendar year. 53105

(B) Beginning July 1, ~~2005~~ 2007, and the first day of each 53106
July thereafter, adjust fees determined under division (A) of this 53107
section in accordance with the composite inflation factor 53108
established in rules adopted under section 5112.39 of the Revised 53109

Code. 53110

(C) If the United States secretary of health and human 53111
services determines that the franchise permit fee established by 53112
sections 5112.30 to 5112.39 of the Revised Code would be an 53113
impermissible health care-related tax under section 1903(w) of the 53114
"Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the~~ 53115
~~department shall~~ take all necessary actions to cease 53116
implementation of those sections in accordance with rules adopted 53117
under section 5112.39 of the Revised Code. 53118

Sec. 5112.341. (A) In addition to assessing a penalty 53119
pursuant to section 5112.34 of the Revised Code, the department of 53120
job and family services may do either of the following if an 53121
intermediate care facility for the mentally retarded fails to pay 53122
the full amount of a franchise permit fee installment when due: 53123

(1) Withhold an amount equal to the installment and penalty 53124
assessed under section 5112.34 of the Revised Code from a medicaid 53125
payment due the facility until the facility pays the installment 53126
and penalty; 53127

(2) Terminate the facility's medicaid provider agreement. 53128

(B) The department may withhold a medicaid payment under 53129
division (A)(1) of this section without providing notice to the 53130
intermediate care facility for the mentally retarded and without 53131
conducting an adjudication under Chapter 119. of the Revised Code. 53132

Sec. 5115.20. (A) The department of job and family services 53133
shall establish a disability advocacy program and each county 53134
department of job and family services shall establish a disability 53135
advocacy program unit or join with other county departments of job 53136
and family services to establish a joint county disability 53137
advocacy program unit. Through the program the department and 53138
county departments shall cooperate in efforts to assist applicants 53139

for and recipients of assistance under the disability financial 53140
assistance program ~~and the disability medical assistance program,~~ 53141
who might be eligible for supplemental security income benefits 53142
under Title XVI of the "Social Security Act," 86 Stat. 1475 53143
(1972), 42 U.S.C.A. 1383, as amended, in applying for those 53144
benefits. 53145

As part of their disability advocacy programs, the state 53146
department and county departments may enter into contracts for the 53147
services of persons and government entities that in the judgment 53148
of the department or county department have demonstrated expertise 53149
in representing persons seeking supplemental security income 53150
benefits. Each contract shall require the person or entity with 53151
which a department contracts to assess each person referred to it 53152
by the department to determine whether the person appears to be 53153
eligible for supplemental security income benefits, and, if the 53154
person appears to be eligible, assist the person in applying and 53155
represent the person in any proceeding of the social security 53156
administration, including any appeal or reconsideration of a 53157
denial of benefits. The department or county department shall 53158
provide to the person or entity with which it contracts all 53159
records in its possession relevant to the application for 53160
supplemental security income benefits. The department shall 53161
require a county department with relevant records to submit them 53162
to the person or entity. 53163

(B) Each applicant for or recipient of disability financial 53164
assistance ~~or disability medical assistance~~ who, in the judgment 53165
of the department or a county department might be eligible for 53166
supplemental security benefits, shall, as a condition of 53167
eligibility for assistance, apply for such benefits if directed to 53168
do so by the department or county department. 53169

(C) With regard to applicants for and recipients of 53170
disability financial assistance ~~or disability medical assistance,~~ 53171

each county department of job and family services shall do all of 53172
the following: 53173

(1) Identify applicants and recipients who might be eligible 53174
for supplemental security income benefits; 53175

(2) Assist applicants and recipients in securing 53176
documentation of disabling conditions or refer them for such 53177
assistance to a person or government entity with which the 53178
department or county department has contracted under division (A) 53179
of this section; 53180

(3) Inform applicants and recipients of available sources of 53181
representation, which may include a person or government entity 53182
with which the department or county department has contracted 53183
under division (A) of this section, and of their right to 53184
represent themselves in reconsiderations and appeals of social 53185
security administration decisions that deny them supplemental 53186
security income benefits. The county department may require the 53187
applicants and recipients, as a condition of eligibility for 53188
assistance, to pursue reconsiderations and appeals of social 53189
security administration decisions that deny them supplemental 53190
security income benefits, and shall assist applicants and 53191
recipients as necessary to obtain such benefits or refer them to a 53192
person or government entity with which the department or county 53193
department has contracted under division (A) of this section. 53194

(4) Require applicants and recipients who, in the judgment of 53195
the county department, are or may be aged, blind, or disabled, to 53196
apply for medical assistance under Chapter 5111. of the Revised 53197
Code, make determinations when appropriate as to eligibility for 53198
medical assistance, and refer their applications when necessary to 53199
the disability determination unit established in accordance with 53200
division (F) of this section for expedited review; 53201

(5) Require each applicant and recipient who in the judgment 53202

of the department or the county department might be eligible for 53203
supplemental security income benefits, as a condition of 53204
eligibility for disability financial assistance ~~or disability~~ 53205
~~medical assistance~~, to execute a written authorization for the 53206
secretary of health and human services to withhold benefits due 53207
that individual and pay to the director of job and family services 53208
or the director's designee an amount sufficient to reimburse the 53209
state and county shares of interim assistance furnished to the 53210
individual. For the purposes of division (C)(5) of this section, 53211
"benefits" and "interim assistance" have the meanings given in 53212
Title XVI of the "Social Security Act." 53213

(D) The director of job and family services shall adopt rules 53214
in accordance with section 111.15 of the Revised Code for the 53215
effective administration of the disability advocacy program. The 53216
rules shall include all of the following: 53217

(1) Methods to be used in collecting information from and 53218
disseminating it to county departments, including the following: 53219

(a) The number of individuals in the county who are disabled 53220
recipients of disability financial assistance ~~or disability~~ 53221
~~medical assistance~~; 53222

(b) The final decision made either by the social security 53223
administration or by a court for each application or 53224
reconsideration in which an individual was assisted pursuant to 53225
this section. 53226

(2) The type and process of training to be provided by the 53227
department of job and family services to the employees of the 53228
county department of job and family services who perform duties 53229
under this section; 53230

(3) Requirements for the written authorization required by 53231
division (C)(5) of this section. 53232

(E) The department shall provide basic and continuing 53233
training to employees of the county department of job and family 53234
services who perform duties under this section. Training shall 53235
include but not be limited to all processes necessary to obtain 53236
federal disability benefits, and methods of advocacy. 53237

(F) The department shall establish a disability determination 53238
unit and develop guidelines for expediting reviews of applications 53239
for medical assistance under Chapter 5111. of the Revised Code for 53240
persons who have been referred to the unit under division (C)(4) 53241
of this section. The department shall make determinations of 53242
eligibility for medical assistance for any such person within the 53243
time prescribed by federal regulations. 53244

(G) The department may, under rules the director of job and 53245
family services adopts in accordance with section 111.15 of the 53246
Revised Code, pay a portion of the federal reimbursement described 53247
in division (C)(5) of this section to persons or government 53248
entities that assist or represent assistance recipients in 53249
reconsiderations and appeals of social security administration 53250
decisions denying them supplemental security income benefits. 53251

(H) The director shall conduct investigations to determine 53252
whether disability advocacy programs are being administered in 53253
compliance with the Revised Code and the rules adopted by the 53254
director pursuant to this section. 53255

Sec. 5115.22. (A) If a recipient of disability financial 53256
assistance ~~or disability medical assistance~~, or an individual 53257
whose income and resources are included in determining the 53258
recipient's eligibility for the assistance, becomes possessed of 53259
resources or income in excess of the amount allowed to retain 53260
eligibility, or if other changes occur that affect the recipient's 53261
eligibility or need for assistance, the recipient shall notify the 53262
state or county department of job and family services within the 53263

time limits specified in rules adopted by the director of job and 53264
family services in accordance with section 111.15 of the Revised 53265
Code. Failure of a recipient to report possession of excess 53266
resources or income or a change affecting eligibility or need 53267
within those time limits shall be considered prima-facie evidence 53268
of intent to defraud under section 5115.23 of the Revised Code. 53269

(B) As a condition of eligibility for disability financial 53270
assistance ~~or disability medical assistance~~, and as a means of 53271
preventing or reducing the provision of assistance at public 53272
expense, each applicant for or recipient of the assistance shall 53273
make reasonable efforts to secure support from persons responsible 53274
for the applicant's or recipient's support, and from other 53275
sources, including any federal program designed to provide 53276
assistance to individuals with disabilities. The state or county 53277
department of job and family services may provide assistance to 53278
the applicant or recipient in securing other forms of financial 53279
assistance. 53280

Sec. 5115.23. As used in this section, "erroneous payments" 53281
means disability financial assistance payments ~~or disability~~ 53282
~~medical assistance payments~~ made to persons who are not entitled 53283
to receive them, including payments made as a result of 53284
misrepresentation or fraud, and payments made due to an error by 53285
the recipient or by the county department of job and family 53286
services that made the payment. 53287

The department of job and family services shall adopt rules 53288
in accordance with section 111.15 of the Revised Code specifying 53289
the circumstances under which action is to be taken under this 53290
section to recover erroneous payments. The department, or a county 53291
department of job and family services at the request of the 53292
department, shall take action to recover erroneous payments in the 53293
circumstances specified in the rules. The department or county 53294

department may institute a civil action to recover erroneous 53295
payments. 53296

Whenever disability financial assistance ~~or disability~~ 53297
~~medical assistance~~ has been furnished to a recipient for whose 53298
support another person is responsible, the other person shall, in 53299
addition to the liability otherwise imposed, as a consequence of 53300
failure to support the recipient, be liable for all assistance 53301
furnished the recipient. The value of the assistance so furnished 53302
may be recovered in a civil action brought by the county 53303
department of job and family services. 53304

Each county department of job and family services shall 53305
retain fifty per cent of the erroneous payments it recovers under 53306
this section. The department of job and family services shall 53307
receive the remaining fifty per cent. 53308

Sec. 5119.61. Any provision in this chapter that refers to a 53309
board of alcohol, drug addiction, and mental health services also 53310
refers to the community mental health board in an alcohol, drug 53311
addiction, and mental health service district that has a community 53312
mental health board. 53313

The director of mental health with respect to all facilities 53314
and programs established and operated under Chapter 340. of the 53315
Revised Code for mentally ill and emotionally disturbed persons, 53316
shall do all of the following: 53317

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 53318
that may be necessary to carry out the purposes of Chapter 340. 53319
and sections 5119.61 to 5119.63 of the Revised Code. 53320

(1) The rules shall include all of the following: 53321

(a) Rules governing a community mental health agency's 53322
services under section 340.091 of the Revised Code to an 53323
individual referred to the agency under division (C)(2) of section 53324

173.35 of the Revised Code; 53325

(b) For the purpose of division (A)(16) of section 340.03 of 53326
the Revised Code, rules governing the duties of mental health 53327
agencies and boards of alcohol, drug addiction, and mental health 53328
services under section 3722.18 of the Revised Code regarding 53329
referrals of individuals with mental illness or severe mental 53330
disability to adult care facilities and effective arrangements for 53331
ongoing mental health services for the individuals. The rules 53332
shall do at least the following: 53333

(i) Provide for agencies and boards to participate fully in 53334
the procedures owners and managers of adult care facilities must 53335
follow under division (A)(2) of section 3722.18 of the Revised 53336
Code; 53337

(ii) Specify the manner in which boards are accountable for 53338
ensuring that ongoing mental health services are effectively 53339
arranged for individuals with mental illness or severe mental 53340
disability who are referred by the board or mental health agency 53341
under contract with the board to an adult care facility. 53342

(c) Rules governing a board of alcohol, drug addiction, and 53343
mental health services when making a report to the director of 53344
health under section 3722.17 of the Revised Code regarding the 53345
quality of care and services provided by an adult care facility to 53346
a person with mental illness or a severe mental disability. 53347

(2) Rules may be adopted to govern the method of paying a 53348
community mental health facility, as defined in section ~~5111.022~~ 53349
5111.023 of the Revised Code, for providing services listed in 53350
division (B) of that section. Such rules must be consistent with 53351
the contract entered into between the departments of job and 53352
family services and mental health under section 5111.91 of the 53353
Revised Code and include requirements ensuring appropriate service 53354
utilization. 53355

(B) Review and evaluate, and, taking into account the 53356
findings and recommendations of the board of alcohol, drug 53357
addiction, and mental health services of the district served by 53358
the program and the requirements and priorities of the state 53359
mental health plan, including the needs of residents of the 53360
district now residing in state mental institutions, approve and 53361
allocate funds to support community programs, and make 53362
recommendations for needed improvements to boards of alcohol, drug 53363
addiction, and mental health services; 53364

(C) Withhold state and federal funds for any program, in 53365
whole or in part, from a board of alcohol, drug addiction, and 53366
mental health services in the event of failure of that program to 53367
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 53368
or 5119.62 of the Revised Code or rules of the department of 53369
mental health. The director shall identify the areas of 53370
noncompliance and the action necessary to achieve compliance. The 53371
director shall offer technical assistance to the board to achieve 53372
compliance. The director shall give the board a reasonable time 53373
within which to comply or to present its position that it is in 53374
compliance. Before withholding funds, a hearing shall be conducted 53375
to determine if there are continuing violations and that either 53376
assistance is rejected or the board is unable to achieve 53377
compliance. Subsequent to the hearing process, if it is determined 53378
that compliance has not been achieved, the director may allocate 53379
all or part of the withheld funds to a public or private agency to 53380
provide the services not in compliance until the time that there 53381
is compliance. The director shall establish rules pursuant to 53382
Chapter 119. of the Revised Code to implement this division. 53383

(D) Withhold state or federal funds from a board of alcohol, 53384
drug addiction, and mental health services that denies available 53385
service on the basis of religion, race, color, creed, sex, 53386
national origin, age, disability as defined in section 4112.01 of 53387

the Revised Code, developmental disability, or the inability to pay; 53388
53389

(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services; 53390
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(F) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available; 53393
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(G) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions. 53398
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(H) Develop and operate a community mental health information system. 53411
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Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following: 53413
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(1) Information regarding units of services provided in whole 53418

or in part under contract with a board, including diagnosis and 53419
special needs, demographic information, the number of units of 53420
service provided, past treatment, financial status, and service 53421
dates in accordance with rules adopted by the department in 53422
accordance with Chapter 119. of the Revised Code; 53423

(2) Financial information other than price or price-related 53424
data regarding expenditures of boards and community mental health 53425
agencies, including units of service provided, budgeted and actual 53426
expenses by type, and sources of funds. 53427

Boards shall submit the information specified in division 53428
(H)(1) of this section no less frequently than annually for each 53429
client, and each time the client's case is opened or closed. The 53430
department shall not collect any information for the purpose of 53431
identifying by name any person who receives a service through a 53432
board of alcohol, drug addiction, and mental health services, 53433
except as required by state or federal law to validate appropriate 53434
reimbursement. For the purposes of division (H)(1) of this 53435
section, the department shall use an identification system that is 53436
consistent with applicable nationally recognized standards. 53437

(I) Review each board's community mental health plan 53438
submitted pursuant to section 340.03 of the Revised Code and 53439
approve or disapprove it in whole or in part. Periodically, in 53440
consultation with representatives of boards and after considering 53441
the recommendations of the medical director, the director shall 53442
issue criteria for determining when a plan is complete, criteria 53443
for plan approval or disapproval, and provisions for conditional 53444
approval. The factors that the director considers may include, but 53445
are not limited to, the following: 53446

(1) The mental health needs of all persons residing within 53447
the board's service district, especially severely mentally 53448
disabled children, adolescents, and adults; 53449

(2) The demonstrated quality, effectiveness, efficiency, and 53450
cultural relevance of the services provided in each service 53451
district, the extent to which any services are duplicative of 53452
other available services, and whether the services meet the needs 53453
identified above; 53454

(3) The adequacy of the board's accounting for the 53455
expenditure of funds. 53456

If the director disapproves all or part of any plan, the 53457
director shall provide the board an opportunity to present its 53458
position. The director shall inform the board of the reasons for 53459
the disapproval and of the criteria that must be met before the 53460
plan may be approved. The director shall give the board a 53461
reasonable time within which to meet the criteria, and shall offer 53462
technical assistance to the board to help it meet the criteria. 53463

If the approval of a plan remains in dispute thirty days 53464
prior to the conclusion of the fiscal year in which the board's 53465
current plan is scheduled to expire, the board or the director may 53466
request that the dispute be submitted to a mutually agreed upon 53467
third-party mediator with the cost to be shared by the board and 53468
the department. The mediator shall issue to the board and the 53469
department recommendations for resolution of the dispute. Prior to 53470
the conclusion of the fiscal year in which the current plan is 53471
scheduled to expire, the director, taking into consideration the 53472
recommendations of the mediator, shall make a final determination 53473
and approve or disapprove the plan, in whole or in part. 53474

Sec. 5120.09. Under the supervision and control of the 53475
director of rehabilitation and correction, the division of 53476
business administration shall do all of the following: 53477

(A) Submit the budgets for the several divisions of the 53478
department of rehabilitation and correction, as prepared by the 53479

respective chiefs of those divisions, to the director. The 53480
director, with the assistance of the chief of the division of 53481
business administration, shall compile a departmental budget that 53482
contains all proposals submitted by the chiefs of the divisions 53483
and shall forward the departmental budget to the governor with 53484
comments and recommendations that the director considers 53485
necessary. 53486

(B) Maintain accounts and records and compile statistics that 53487
the director prescribes; 53488

(C) Under the control of the director, coordinate and make 53489
the necessary purchases and requisitions for the department and 53490
its divisions, except as provided under section 5119.16 of the 53491
Revised Code; 53492

(D) Administer within this state federal criminal justice 53493
acts that the governor requires the department to administer. In 53494
order to improve the criminal justice system of this state, the 53495
division of business administration shall apply for, allocate, 53496
disburse, and account for grants that are made available pursuant 53497
to those federal criminal justice acts and grants that are made 53498
available from other federal government sources, state government 53499
sources, or private sources. As used in this division, "criminal 53500
justice system" and "federal criminal justice acts" have the same 53501
meanings as in section ~~181.51~~ 5502.61 of the Revised Code. 53502

(E) Audit the activities of governmental entities, persons as 53503
defined in section 1.59 of the Revised Code, and other types of 53504
nongovernmental entities that are financed in whole or in part by 53505
funds that the department allocates or disburses and that are 53506
derived from grants described in division (D) of this section; 53507

(F) Enter into contracts, including contracts with federal, 53508
state, or local governmental entities, persons as defined in 53509
section 1.59 of the Revised Code, foundations, and other types of 53510

nongovernmental entities, that are necessary for the department to 53511
carry out its duties and that neither the director nor another 53512
section of the Revised Code authorizes another division of the 53513
department to enter; 53514

(G) Exercise other powers and perform other duties that the 53515
director may assign to the division of business administration. 53516

Sec. 5120.16. (A) Persons sentenced to any institution, 53517
division, or place under the control of the department of 53518
rehabilitation and correction are committed to the control, care, 53519
and custody of the department. Subject to division (B) of this 53520
section, the director of rehabilitation and correction or the 53521
director's designee may direct that persons sentenced to the 53522
department, or to any institution or place within the department, 53523
shall be conveyed initially to an appropriate facility established 53524
and maintained by the department for reception, examination, 53525
observation, and classification of the persons so sentenced. If a 53526
presentence investigation report was not prepared pursuant to 53527
section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 53528
32.2 regarding any person sentenced to the department or to any 53529
institution or place within the department, the director or the 53530
director's designee may order the department's field staff to 53531
conduct an offender background investigation and prepare an 53532
offender background investigation report regarding the person. The 53533
investigation and report shall be conducted in accordance with 53534
division (A) of section 2951.03 of the Revised Code and the report 53535
shall contain the same information as a presentence investigation 53536
report prepared pursuant to that section. 53537

When the examination, observation, and classification of the 53538
person have been completed by the facility and a written report of 53539
the examination, observation, and classification is filed with the 53540
commitment papers, the director or the director's designee, 53541

subject to division (B) of this section, shall assign the person
to a suitable state institution or place maintained by the state
within the director's department or shall designate that the
person is to be housed in a county, multicounty, municipal,
municipal-county, or multicounty-municipal jail or workhouse, if
authorized by section 5120.161 of the Revised Code, there to be
confined, cared for, treated, trained, and rehabilitated until
paroled, released in accordance with section 2929.20, 2967.05,
2967.26, or 2967.28 of the Revised Code, or otherwise released
under the order of the court that imposed the person's sentence.
No person committed by a probate court, a trial court pursuant to
section 2945.40, 2945.401, or 2945.402 of the Revised Code
subsequent to a finding of not guilty by reason of insanity, or a
juvenile court shall be assigned to a state correctional
institution.

If a person is sentenced, committed, or assigned for the
commission of a felony to any one of the institutions or places
maintained by the department or to a county, multicounty,
municipal, municipal-county, or multicounty-municipal jail or
workhouse, the department, by order duly recorded and subject to
division (B) of this section, may transfer the person to any other
institution, or, if authorized by section 5120.161 of the Revised
Code, to a county, multicounty, municipal, municipal-county, or
multicounty-municipal jail or workhouse.

(B) If the case of a child who is alleged to be a delinquent
child is transferred for criminal prosecution to the appropriate
court having jurisdiction of the offense pursuant to section
2152.12 of the Revised Code, if the child is convicted of or
pleads guilty to a felony in that case, if the child is sentenced
to a prison term, as defined in section 2901.01 of the Revised
Code, and if the child is under eighteen years of age when
delivered to the custody of the department of rehabilitation and

correction, all of the following apply regarding the housing of the child: 53574
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(1) Until the child attains eighteen years of age, subject to divisions (B)(2), (3), and (4) of this section, the department shall house the child in a housing unit in a state correctional institution separate from inmates who are eighteen years of age or older. 53576
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(2) The department is not required to house the child in the manner described in division (B)(1) of this section if the child does not observe the rules and regulations of the institution or the child otherwise creates a security risk by being housed separately. 53581
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(3) If the department receives too few inmates who are under eighteen years of age to fill a housing unit in a state correctional institution separate from inmates who are eighteen years of age or older, as described in division (B)(1) of this section, the department may house the child in a housing unit in a state correctional institution that includes both inmates who are under eighteen years of age and inmates who are eighteen years of age or older and under twenty-one years of age. 53586
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(4) Upon the child's attainment of eighteen years of age, the department may house the child with the adult population of the state correctional institution. 53594
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(C) The director or the director's designee shall develop a policy for dealing with problems related to infection with the human immunodeficiency virus. The policy shall include methods of identifying individuals committed to the custody of the department who are at high risk of infection with the virus and counseling those individuals. 53597
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Arrangements for housing individuals diagnosed as having AIDS or an AIDS-related condition shall be made by the department based 53603
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on security and medical considerations and in accordance with 53605
division (B) of this section, if applicable. 53606

Sec. 5120.48. (A) If a prisoner escapes from a state 53607
correctional institution, the managing officer of the institution, 53608
after consultation with and upon the advice of appropriate law 53609
enforcement officials, shall assign and deploy into the community 53610
appropriate staff persons necessary to apprehend the prisoner. 53611
Correctional officers and officials may carry firearms when 53612
required in the discharge of their duties in apprehending, taking 53613
into custody, or transporting to a place of confinement a prisoner 53614
who has escaped from a state correctional institution. 53615

(B) If a prisoner is released from a state correctional 53616
institution prior to the lawful end of the person's prison term or 53617
term of imprisonment, whether by error, inadvertence, fraud, or 53618
any other cause except a lawful parole, a release pursuant to 53619
section 2967.05 of the Revised Code, or a judicial release granted 53620
pursuant to section 2929.20 of the Revised Code, the managing 53621
officer of the institution, after consulting with the bureau of 53622
sentence computation, shall notify the chief of the adult parole 53623
authority, the office of victim services of the division of parole 53624
and community services, and the sentencing court of the mistaken 53625
release. Upon the direction of the chief, or the chief's designee, 53626
field officers of the authority may arrest the prisoner without a 53627
warrant and return the prisoner to the state correctional 53628
institution to complete the balance of the prisoner's sentence. 53629
The chief of the adult parole authority, or the chief's designee, 53630
may require the assistance of any peace officer or law enforcement 53631
officer in the apprehension of a prisoner of that nature. 53632

Sec. 5120.51. (A)(1) If the director of rehabilitation and 53633
correction determines that a bill introduced in the general 53634

assembly is likely to have a significant impact on the population 53635
of, or the cost of operating, any or all state correctional 53636
institutions under the administration of the department of 53637
rehabilitation and correction, the department shall prepare a 53638
population and cost impact statement for the bill, in accordance 53639
with division (A)(2) of this section. 53640

(2) A population and cost impact statement required for a 53641
bill ~~shall~~ shall estimate the increase or decrease in the 53642
correctional institution population that likely would result if 53643
the bill were enacted, shall estimate, in dollars, the amount by 53644
which revenues or expenditures likely would increase or decrease 53645
if the bill were enacted, and briefly shall explain each of the 53646
estimates. 53647

A population and cost impact statement required for a bill 53648
initially shall be prepared after the bill is referred to a 53649
committee of the general assembly in the house of origination but 53650
before the meeting of the committee at which the committee is 53651
scheduled to vote on whether to recommend the bill for passage. A 53652
copy of the statement shall be distributed to each member of the 53653
committee that is considering the bill and to the member of the 53654
general assembly who introduced it. If the bill is recommended for 53655
passage by the committee, the department shall update the 53656
statement before the bill is taken up for final consideration by 53657
the house of origination. A copy of the updated statement shall be 53658
distributed to each member of that house and to the member of the 53659
general assembly who introduced the bill. If the bill is passed by 53660
the house of origination and is introduced in the second house, 53661
the provisions of this division concerning the preparation, 53662
updating, and distribution of the statement in the house of 53663
origination also apply in the second house. 53664

(B) The governor or any member of the general assembly, at 53665
any time, may request the department to prepare a population and 53666

cost impact statement for any bill introduced in the general assembly. Upon receipt of a request, the department promptly shall prepare a statement that includes the estimates and explanations described in division (A)(2) of this section and present a copy of it to the governor or member who made the request.

(C) In the preparation of a population and cost impact statement required by division (A) or (B) of this section, the department shall use a technologically sophisticated system capable of estimating future state correctional institution populations. The system shall have the capability to adjust its estimates based on actual and proposed changes in sentencing laws and trends, sentence durations, parole rates, crime rates, and any other data that affect state correctional institution populations. The department, in conjunction with the advisory committee appointed under division (E) of this section, shall review and update the data used in the system, not less than once every six months, to improve the accuracy of the system.

(D) At least once every six months, the department shall provide to the correctional institution inspection committee a copy of the estimates of state correctional institution populations obtained through use of the system described in division (C) of this section and a description of the assumptions regarding sentencing laws and trends, sentence durations, parole rates, crime rates, and other relevant data that were made by the department to obtain the estimates. Additionally, a copy of the estimates and a description of the assumptions made to obtain them shall be provided, upon reasonable request, to other legislative staff, including the staff of the legislative service commission ~~and the legislative budget office of the legislative service commission~~, to the office of budget and management, and to the office division of criminal justice services in the department of public safety.

(E) The correctional institution inspection committee shall 53699
appoint an advisory committee to review the operation of the 53700
system for estimating future state correctional institution 53701
populations that is used by the department in the preparation of 53702
population cost impact statements pursuant to this section and to 53703
join with the department in its reviews and updating of the data 53704
used in the system under division (C) of this section. The 53705
advisory committee shall be comprised of at least one prosecuting 53706
attorney, at least one common pleas court judge, at least one 53707
public defender, at least one person who is a member or staff 53708
employee of the committee, and at least one representative of the 53709
office division of criminal justice services in the department of 53710
public safety. 53711

Sec. ~~5121.03~~ 5121.01. As used in ~~this chapter~~ sections 53712
5121.01 to 5121.21 of the Revised Code: 53713

~~(A) Patient means a person receiving care or treatment in a~~ 53714
~~program or facility that provides services to mentally ill~~ 53715
~~individuals.~~ 53716

~~(B) "The department" means the department of mental health or~~ 53717
~~the department of mental retardation and developmental~~ 53718
~~disabilities, whichever provides care or treatment to the patient~~ 53719
recipient or resident. 53720

~~(C)~~(B) "Resident" means a person admitted to an institution 53721
or other facility pursuant to Chapter 5123. of the Revised Code 53722
who is under observation or receiving habilitation and care in an 53723
institution for the mentally retarded. 53724

(C) "Community mental health services recipient" or 53725
"recipient" means a person receiving state-operated community 53726
mental health services. 53727

(D) "State-operated community mental health services" means 53728

community-based services the department of mental health operates 53729
for a board of alcohol, drug addiction, and mental health services 53730
pursuant to a community mental health plan approved under division 53731
(A)(1)(c) of section 340.03 of the Revised Code. 53732

(E) "Applicable cost" means the rate for support applicable 53733
to a ~~patient or~~ resident or recipient as specified in this 53734
section. 53735

The cost for support of ~~patients in hospitals and~~ residents 53736
in institutions under the jurisdiction of ~~the department of mental~~ 53737
~~health or~~ the department of mental retardation and developmental 53738
disabilities, and of residents in private facilities or homes 53739
whose care or treatment is being paid for by the department of 53740
mental retardation and developmental disabilities, shall be based 53741
on the average per capita cost of the care and treatment of such 53742
~~patients or~~ residents. The cost of services for ~~mentally ill~~ 53743
~~patients or~~ mentally retarded residents shall be computed using 53744
the projected average daily per capita cost at the ~~hospital or~~ 53745
institution, or at the discretion of the department under the 53746
jurisdiction of which the ~~hospital or~~ institution is operated, the 53747
subunit thereof in which services are provided. Such costs shall 53748
be computed at least annually for the next prospective period 53749
using generally accepted governmental accounting principles. The 53750
cost of services for mentally retarded residents that are being 53751
cared for and maintained in a private facility or home under the 53752
supervision of the department of mental retardation and 53753
developmental disabilities regional offices and for which a 53754
purchase of services contract is being paid to the private 53755
facility or home by the department shall not be more than the per 53756
diem cost of the contract. The cost of services for a resident 53757
receiving pre-admission care, after-care, day-care, or routine 53758
consultation and treatment services in a community service unit 53759
under the jurisdiction of the department, shall be computed on the 53760

basis of the average cost of such services at the institution at 53761
which they are provided. 53762

The cost for support of a ~~patient receiving~~ recipient of 53763
state-operated community mental health services is an amount 53764
determined using guidelines the department of mental health shall 53765
issue. The guidelines shall be based on cost-findings and 53766
rate-settings applicable to such services. 53767

The appropriate department shall annually determine the 53768
ability to pay of a ~~patient or~~ resident, recipient, or the 53769
~~patient's or~~ resident's or recipient's liable relatives and the 53770
amount that such person shall pay in accordance with section 53771
5121.04 of the Revised Code. 53772

Collections of support payments shall be made by the 53773
department of mental health and the department of mental 53774
retardation and developmental disabilities and, subject to meeting 53775
prior requirements for payment and crediting of such collections 53776
and other available receipts, in accordance with the bond 53777
proceedings applicable to obligations issued pursuant to section 53778
154.20 of the Revised Code, such collections and other available 53779
receipts designated by the director of the department of mental 53780
health and the director of the department of mental retardation 53781
and developmental disabilities for deposit in the special 53782
accounts, together with insurance contract payments provided for 53783
in division (B)(8) of section 5121.04 of the Revised Code, shall 53784
be remitted to the treasurer of state for deposit in the state 53785
treasury to the credit of the mental health operating fund and the 53786
mental retardation operating fund, which are hereby created, to be 53787
used for the general purposes of the department of mental health 53788
and the department of mental retardation and developmental 53789
disabilities. The department of mental health shall make refunds 53790
of overpayment of support charges from the mental health operating 53791
fund, and the department of mental retardation and developmental 53792

disabilities shall make refunds of overpayment of support charges 53793
from the mental retardation operating fund. 53794

Sec. ~~5121.01~~ 5121.02. All ~~patients or~~ residents of a 53795
~~benevolent~~ admitted to an institution, or facility pursuant to 53796
Chapter 5123. of the Revised Code shall be maintained at the 53797
expense of the state. Their traveling and incidental expenses in 53798
conveying them to the institution or facility shall be paid by the 53799
county of commitment. Upon admission, the ~~patients or~~ residents 53800
shall be neatly and comfortably clothed. Thereafter, the expense 53801
of necessary clothing shall be borne by the responsible relatives 53802
or guardian if they are financially able. If not furnished, the 53803
state shall bear the expense. Any required traveling expense after 53804
admission to the institution or facility shall be borne by the 53805
state if the responsible relatives or guardian are unable to do 53806
so. 53807

Sec. ~~5121.02~~ 5121.03. When any person is committed to an 53808
institution under the jurisdiction of ~~the department of mental~~ 53809
~~health or~~ the department of mental retardation and developmental 53810
disabilities pursuant to judicial proceedings, the judge ordering 53811
such commitment shall: 53812

(A) Make a reliable report on the financial condition of such 53813
person and of each of the relatives of the person who are liable 53814
for ~~his~~ the person's support, as provided in section 5121.06 of 53815
the Revised Code and rules and procedures agreed upon by ~~the~~ 53816
~~director of mental health and~~ the director of mental retardation 53817
and developmental disabilities; 53818

(B) Certify to the managing officer of such institution, and 53819
the managing officer shall thereupon enter upon ~~his~~ the managing 53820
officer's records the name and address of any guardian appointed 53821
and of any relative liable for such person's support under section 53822

5121.06 of the Revised Code. 53823

Sec. 5121.04. (A) ~~The department of mental health and the~~ 53824
department of mental retardation and developmental disabilities 53825
shall investigate the financial condition of the ~~patients in~~ 53826
~~hospitals and~~ residents in institutions, residents whose care or 53827
treatment is being paid for in a private facility or home under 53828
the control of the department of mental retardation and 53829
developmental disabilities, and of the relatives named in section 53830
5121.06 of the Revised Code as liable for the support of such 53831
~~patients or~~ residents, in order to determine the ability of any 53832
~~patient, resident, or such~~ relatives of residents to pay for the 53833
support of the ~~patient or~~ resident and to provide suitable 53834
clothing as required by the superintendent of the institution. 53835

The department of mental health shall investigate the 53836
financial condition of ~~patients receiving state operated community~~ 53837
~~mental health services~~ recipients and of the liable relatives of 53838
recipients to determine the ~~patient's~~ recipient's or relative's 53839
ability to pay for the ~~patient's~~ recipient's support. In all 53840
cases, in determining ability to pay and the amount to be charged, 53841
due regard shall be had for others who may be dependent for 53842
support upon such relatives or the estate of the ~~patient~~ 53843
recipient. 53844

(B) The department shall follow the provisions of this 53845
division in determining the ability to pay of a ~~patient or~~ 53846
resident or recipient or the ~~patient's or~~ resident's or 53847
recipient's liable relatives and the amount to be charged such 53848
~~patient or~~ resident, recipient, or liable relatives. 53849

(1) Subject to divisions (B)(10) and (11) of this section, a 53850
~~patient or~~ resident or recipient without dependents shall be 53851
liable for the full applicable cost. A ~~patient or~~ resident or 53852
recipient without dependents who has a gross annual income equal 53853

to or exceeding the sum of the full applicable cost, plus fifty 53854
dollars per month, regardless of the source of such income, shall 53855
pay currently the full amount of the applicable cost; if the 53856
~~patient's or~~ resident's or recipient's gross annual income is less 53857
than such sum, not more than fifty dollars per month shall be kept 53858
for personal use by or on behalf of the ~~patient or~~ resident or 53859
recipient, except as permitted in the state plan for providing 53860
medical assistance under Title XIX of the "Social Security Act," 53861
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance 53862
shall be paid currently on the ~~patient's or~~ resident's or 53863
recipient's support. Subject to divisions (B)(10) and (11) of this 53864
section, the estate of a ~~patient or~~ resident or recipient without 53865
dependents shall pay currently any remaining difference between 53866
the applicable cost and the amounts prescribed in this section, or 53867
shall execute an agreement with the department for payment to be 53868
made at some future date under terms suitable to the department. 53869
However, no security interest, mortgage, or lien shall be taken, 53870
granted, or charged against any principal residence of a ~~patient~~ 53871
~~or~~ resident or recipient without dependents under an agreement or 53872
otherwise to secure support payments, and no foreclosure actions 53873
shall be taken on security interests, mortgages, or liens taken, 53874
granted, or charged against principal residences of ~~patients or~~ 53875
residents or recipients prior to October 7, 1977. 53876

(2) The ability to pay of a ~~patient or~~ resident or recipient 53877
with dependents, or of a liable relative of a ~~patient or~~ resident 53878
or recipient either with or without dependents, shall be 53879
determined in accordance with the ~~patient's,~~ resident's, 53880
recipient's, or liable relative's income or other assets, the 53881
needs of others who are dependent on such income and other assets 53882
for support, and, if applicable, divisions (B)(10) and (11) of 53883
this section. 53884

For the first thirty days of care and treatment of each 53885

admission and for the first thirty days of care and treatment from 53886
 state-operated community mental health services, but in no event 53887
 for more than thirty days in any calendar year, the ~~mentally ill~~ 53888
~~patient or mentally retarded~~ resident or recipient with dependents 53889
 or the liable relative of a ~~mentally ill patient or a mentally~~ 53890
~~retarded~~ resident or recipient either with or without dependents 53891
 shall be charged an amount equal to the percentage of the average 53892
 applicable cost determined in accordance with the schedule of 53893
 adjusted gross annual income contained after this paragraph. After 53894
 such first thirty days of care and treatment, such ~~mentally ill~~ 53895
~~patient or mentally retarded~~ resident, recipient, or such liable 53896
 relative shall be charged an amount equal to the percentage of a 53897
 base support rate of four dollars per day for ~~mentally ill~~ 53898
~~patients and mentally retarded~~ residents or recipients, as 53899
 determined in accordance with the schedule of gross annual income 53900
 contained after this paragraph, or in accordance with division 53901
 (B)(5) of this section. Beginning January 1, 1978, the department 53902
 shall increase the base rate when the consumer price index average 53903
 is more than 4.0 for the preceding calendar year by not more than 53904
 the average for such calendar year. 53905

Adjusted Gross Annual 53906

Income of Patient or Resident 53907

or Liable Relative (FN a) Number of Dependents (FN b) 53908

8 or 53909

1 2 3 4 5 6 7 more 53910

Rate of Support (In Percentages) 53911

\$15,000 or less -- -- -- -- -- -- -- -- 53912

15,001 to 17,500 20 -- -- -- -- -- -- -- 53913

17,501 to 20,000 25 20 -- -- -- -- -- -- 53914

20,001 to 21,000 30 25 20 -- -- -- -- -- 53915

21,001 to 22,000 35 30 25 20 -- -- -- -- 53916

22,001 to 23,000 40 35 30 25 20 -- -- -- 53917

23,001 to 24,000 45 40 35 30 25 20 -- -- 53918

24,001 to 25,000	50	45	40	35	30	25	20	--	53919
25,001 to 26,000	55	50	45	40	35	30	25	20	53920
26,001 to 27,000	60	55	50	45	40	35	30	25	53921
27,001 to 28,000	70	60	55	50	45	40	35	30	53922
28,001 to 30,000	80	70	60	55	50	45	40	35	53923
30,001 to 40,000	90	80	70	60	55	50	45	40	53924
40,001 and over	100	90	80	70	60	55	50	45	53925

Footnote a. The ~~patient or~~ resident, recipient, or relative shall furnish a copy of the ~~patient's,~~ resident's, recipient's, or relative's federal income tax return as evidence of gross annual income. 53926
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Footnote b. The number of dependents includes the liable relative but excludes ~~the patient or a~~ resident in the hospital or an institution. "Dependent" includes any person who receives more than half the person's support from the ~~patient~~ resident, recipient, or the ~~patient's~~ resident's or recipient's liable relative. 53930
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(3) A ~~patient or~~ resident, recipient, or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished. 53936
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(4) Additional dependencies may be claimed if: 53943

(a) The liable relative is blind; 53944

(b) The liable relative is over sixty-five; 53945

(c) A child is a college student with expenses in excess of fifty dollars per month; 53946
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(d) The services of a housekeeper, costing in excess of fifty 53948

dollars per month, are required if the person who normally keeps house for minor children is the ~~patient or~~ resident or recipient. 53949
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(5) If with respect to any ~~patient or~~ resident or recipient with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such ~~patient or~~ resident or recipient there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such ~~patient or~~ resident or recipient has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such ~~patient or~~ resident or recipient a total of fifty per cent of the applicable cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such ~~patient or~~ resident or recipient an agreement with the department for payment to be made at some future date under terms suitable to the department. 53951
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(6) When a person has been a ~~patient or~~ resident or recipient for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges. 53967
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(7) The department shall accept voluntary payments from ~~patients or residents,~~ recipients, or liable relatives whose incomes are below the minimum shown in the schedule set forth in this division. The department also shall accept voluntary payments in excess of required amounts from both liable and nonliable relatives. 53971
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(8) If a ~~patient or~~ resident or recipient is covered by an insurance policy, or other contract that provides for payment of expenses for care and treatment for mental illness or mental 53977
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retardation at or from an institution, or facility (including a 53980
~~hospital or~~ community service unit under the jurisdiction of the 53981
department), or state-operated community mental health service, 53982
the other provisions of this section, except divisions (B)(8), 53983
(10), and (11) of this section, and of section ~~5121.03~~ 5121.01 of 53984
the Revised Code shall be suspended to the extent that such 53985
insurance policy or other contract is in force, and such ~~patient~~ 53986
~~or~~ resident or recipient shall be charged the full amount of the 53987
applicable cost. Any insurance carrier or other third party payor 53988
providing coverage for such care and treatment shall pay for this 53989
support obligation in an amount equal to the lesser of either the 53990
applicable cost or the benefits provided under the policy or other 53991
contract. Whether or not an insured, owner of, or other person 53992
having an interest in such policy or other contract is liable for 53993
support payments under other provisions of this chapter, the 53994
insured, policy owner, or other person shall assign payment 53995
directly to the department of all assignable benefits under the 53996
policy or other contract and shall pay over to the department, 53997
within ten days of receipt, all insurance or other benefits 53998
received as reimbursement or payment for expenses incurred by the 53999
~~patient or~~ resident or recipient or for any other reason. If the 54000
insured, policy owner, or other person refuses to assign such 54001
payment to the department or refuses to pay such received 54002
reimbursements or payments over to the department within ten days 54003
of receipt, the insured's, policy owners', or other person's total 54004
liability for the services equals the applicable statutory 54005
liability for payment for the services as determined under other 54006
provisions of this chapter, plus the amounts payable under the 54007
terms of the policy or other contract. In no event shall this 54008
total liability exceed the full amount of the applicable cost. 54009
Upon its request, the department is entitled to a court order that 54010
compels the insured, owner of, or other person having an interest 54011
in the policy or other contract to comply with the assignment 54012

requirements of this division or that itself serves as a legally 54013
sufficient assignment in compliance with such requirements. 54014
Notwithstanding section 5122.31 of the Revised Code and any other 54015
law relating to confidentiality of records, the managing officer 54016
of the institution or facility where a person is or has been a 54017
~~patient~~ or resident, or the managing officer of the state-operated 54018
community mental health services from which the ~~patient~~ recipient 54019
receives services, shall disclose pertinent medical information 54020
concerning the ~~patient~~ or resident or recipient to the insurance 54021
carrier or other third party payor in question, in order to effect 54022
collection from the carrier or payor of the state's claim for care 54023
and treatment under this division. For such disclosure, the 54024
managing officer is not subject to any civil or criminal 54025
liability. 54026

(9) The rate to be charged for pre-admission care, 54027
after-care, day-care, or routine consultation and treatment 54028
services shall be based upon the ability of the ~~patient~~ or 54029
resident or the ~~patient's~~ or resident's liable relatives to pay. 54030
When it is determined by the department that a charge shall be 54031
made, such charge shall be computed as provided in divisions 54032
(B)(1) and (2) of this section. 54033

(10) If a ~~patient~~ or resident or recipient with or without 54034
dependents is the beneficiary of a trust created pursuant to 54035
section 1339.51 of the Revised Code, then, notwithstanding any 54036
contrary provision of this chapter or of a rule adopted pursuant 54037
to this chapter, divisions (C) and (D) of that section shall apply 54038
in determining the assets or resources of the ~~patient~~ or resident, 54039
the recipient, the ~~patient's~~ or resident's or recipient's estate, 54040
the settlor, or the settlor's estate and to claims arising under 54041
this chapter against the ~~patient~~ or resident, the recipient, the 54042
~~patient's~~ or resident's or recipient's estate, the settlor, or the 54043
settlor's estate. 54044

(11) If the department of mental retardation and developmental disabilities waives the liability of an individual and the individual's liable relatives pursuant to section 5123.194 of the Revised Code, the liability of the individual and relative ceases in accordance with the waiver's terms.

(C) The department may enter into agreements with a ~~patient~~ or resident, a recipient, or a liable relative for support payments to be made in the future. However, no security interest, mortgage, or lien shall be taken, granted, or charged against any principal family residence of a ~~patient or resident~~ or recipient with dependents or a liable relative under an agreement or otherwise to secure support payments, and no foreclosure actions shall be taken on security interests, mortgages or liens taken, granted, or charged against principal residences of ~~patients or residents,~~ recipients, or liable relatives prior to October 7, 1977.

(D) The department shall make all investigations and determinations required by this section within ninety days after a ~~patient or resident~~ is admitted to an institution under the department's control or a ~~patient~~ recipient begins to receive state-operated community mental health services, and immediately shall notify by mail the persons liable of the amount to be charged.

(E) All actions to enforce the collection of payments agreed upon or charged by the department shall be commenced within six years after the date of default of an agreement to pay support charges or the date such payment becomes delinquent. If a payment is made pursuant to an agreement which is in default, a new six-year period for actions to enforce the collection of payments under such agreement shall be computed from the date of such payment. For purposes of this division an agreement is in default or a payment is delinquent if a payment is not made within thirty

days after it is incurred or a payment, pursuant to an agreement, 54077
is not made within thirty days after the date specified for such 54078
payment. In all actions to enforce the collection of payment for 54079
the liability for support, every court of record shall receive 54080
into evidence the proof of claim made by the state together with 54081
all debts and credits, and it shall be prima-facie evidence of the 54082
facts contained in it. 54083

Sec. 5121.05. The department of mental health and the 54084
department of mental retardation and developmental disabilities 54085
may subpoena witnesses, take testimony under oath, and examine any 54086
public records relating to the income and other assets of a 54087
~~patient or~~ resident, recipient, or of a relative liable for such 54088
~~patient's or~~ resident's or recipient's support. All information, 54089
conclusions, and recommendations shall be submitted to the 54090
department by the investigating agent of the department. The 54091
department shall determine the amount of support to be paid, by 54092
whom, and whether clothing shall be furnished by the relatives or 54093
guardian. 54094

Sec. 5121.06. (A) The following persons other than the 54095
~~patient or~~ resident, the recipient, or the ~~patient's or~~ resident's 54096
or recipient's estate are liable relatives and all the following 54097
persons are jointly and severally liable for the support of a 54098
~~patient or~~ resident in a ~~hospital or~~ institution under the control 54099
of ~~the department of mental health or~~ the department of mental 54100
retardation and developmental disabilities or for the support of a 54101
~~patient receiving~~ recipient of state-operated community mental 54102
health services: 54103

(1) The ~~patient or~~ resident, the recipient, or the ~~patient's~~ 54104
~~or~~ resident's or recipient's estate; 54105

(2) The ~~patient's or~~ resident's or recipient's spouse; 54106

(3) The father or mother, or both, of a minor ~~patient or~~ 54107
resident or recipient under the age of eighteen years. 54108

(B) The department shall determine, pursuant to section 54109
5121.04 of the Revised Code, the amount to be charged each such 54110
liable person in the order named in this section, but shall not 54111
collect from any person more than one hundred per cent of the 54112
applicable cost. 54113

(C) An action to collect delinquent payments or to enforce 54114
agreements in default may be brought against any or all persons 54115
named in this section. To the extent parents of adult ~~patients or~~ 54116
residents or recipients, pursuant to the language of this section 54117
previously in force, incurred charges for the support of such 54118
~~patients or~~ residents or recipients between the eighteenth 54119
birthday of such ~~patient or~~ resident or recipient and July 1, 54120
1975, their liability for such period may be cancelled, 54121
compromised, or settled as provided in section 5121.07 of the 54122
Revised Code. 54123

(D) Irrespective of the number of ~~patients or~~ residents or 54124
recipients whose care might be chargeable against a liable 54125
relative, no individual liable relative nor any group of liable 54126
relatives who are members of the same family unit shall be charged 54127
with the support of more than one ~~patient or~~ resident or recipient 54128
during the same period of time, and different periods of time for 54129
which such liable relative has paid the charges for such different 54130
~~patients' or~~ residents' or recipients' care and support shall be 54131
added together for the purpose of completing the maximum 54132
fifteen-year period of liability of such liable relative under 54133
division (B)(6) of section 5121.04 of the Revised Code. 54134

Sec. 5121.061. The authority of the department of mental 54135
health or the department of mental retardation and developmental 54136
disabilities to modify support charges pursuant to section 5121.04 54137

of the Revised Code shall not be exercised until the ~~patient or~~ 54138
resident, recipient, or liable relative has petitioned the 54139
department for modification as provided in section 5121.07 of the 54140
Revised Code and has offered to the department satisfactory proof 54141
of ~~his~~ the resident's, recipient's, or liable relative's earnings 54142
and assets. The department may modify the charges if its 54143
investigation warrants such modification. 54144

Sec. 5121.07. Any person who has been charged with the 54145
payment of the support of a ~~patient or~~ resident of any benevolent 54146
institution; for pre-admission care, after-care, day-care, or 54147
routine consultation and treatment services in a community service 54148
unit under the control of ~~the department of mental health or the~~ 54149
department of mental retardation and developmental disabilities; 54150
or for the cost of state-operated community mental health services 54151
may petition the department for a release from, or modification 54152
of, such charge, and the department, after an investigation, may 54153
cancel or modify such former charge, or may cancel, compromise, or 54154
settle any accrued liability in an amount not exceeding five 54155
thousand dollars. Amounts in excess thereof may be canceled, 54156
compromised, or settled as provided in section 131.02 of the 54157
Revised Code. The department may for due cause increase the amount 54158
previously ordered paid. 54159

Sec. 5121.08. The managing officers of the benevolent 54160
institutions under the control of ~~the department of mental health~~ 54161
~~and~~ the department of mental retardation and developmental 54162
disabilities, the managing officers of state-operated community 54163
mental health services, and the committing court, if requested, 54164
shall submit to the department such information as they may obtain 54165
concerning the financial condition of any ~~patient or~~ resident, 54166
recipient, or of relatives liable for the ~~patient's or~~ resident's 54167
or recipient's support. 54168

Sec. 5121.09. In case the estate of any ~~patient or~~ resident 54169
in a benevolent institution under the jurisdiction of ~~the~~ 54170
~~department of mental health or~~ the department of mental 54171
retardation and developmental disabilities or ~~receiving~~ recipient 54172
of state-operated community mental health services is sufficient 54173
for the ~~patient's or~~ resident's or recipient's support, without 54174
hardship to any others who may be dependent thereon, and no 54175
guardian has been appointed for such estate, the agent of the 54176
department shall petition the probate court of the proper county 54177
to appoint a guardian. 54178

Sec. 5121.10. Upon the death of a person who is a ~~patient or~~ 54179
resident, or has been a ~~patient or~~ resident, of any benevolent 54180
institution under the jurisdiction of ~~the department of mental~~ 54181
~~health or~~ the department of mental retardation and developmental 54182
disabilities or of a person who is a recipient or has been a 54183
recipient of state-operated community mental health services, or 54184
~~upon the death~~ of a person responsible under section 5121.06 of 54185
the Revised Code for the support of a ~~patient or~~ resident or 54186
recipient, the department may waive the presentation of any claim 54187
for support against the estate of such decedent, when in its 54188
judgment an otherwise dependent person will be directly benefited 54189
by the estate. Claims against an estate for support of a ~~patient~~ 54190
~~or~~ resident or recipient are subject to section 1339.51 and 54191
Chapter 2117. of the Revised Code, and shall be treated, and may 54192
be barred, the same as the claims of other creditors of the 54193
estate, pursuant to that section or chapter. 54194

The department may accept from a guardian or trustee of a 54195
~~patient or~~ resident or recipient a contract agreeing to pay to the 54196
state from the property of the guardian's or trustee's ward before 54197
or at the death of the ward a fixed annual amount for the support 54198
of the ward while the ward is a ~~patient or~~ resident or recipient, 54199

with interest at four per cent per annum. A copy of the contract 54200
shall be filed in the probate court of the proper county and duly 54201
entered as a part of the records concerning the ward. 54202

Sec. 5121.11. The state shall bear the expense of the burial 54203
or cremation of an indigent ~~patient or~~ resident who dies in a 54204
~~state hospital for the mentally ill, or an~~ institution for the 54205
mentally retarded, or in a state correctional institution, if the 54206
body is not claimed for interment or cremation at the expense of 54207
friends or relatives, or is not delivered for anatomical purposes 54208
or for the study of embalming in accordance with section 1713.34 54209
of the Revised Code. The managing officer of the institution shall 54210
provide at the grave of the person or, if the person's cremated 54211
remains are buried, at the grave of the person's cremated remains, 54212
a metal, stone, or concrete marker on which shall be inscribed the 54213
name and age of the person and the date of death. 54214

Sec. 5121.12. The support and maintenance of ~~patients~~ 54215
~~confined in state hospitals for the mentally ill or of~~ residents 54216
confined in state institutions for the mentally retarded, 54217
including those transferred to them from state correctional 54218
institutions, and also including persons under indictment or 54219
conviction for crime, shall be collected and paid in accordance 54220
with this chapter. 54221

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state 54222
under the provisions of Chapter 5121. of the Revised Code is made 54223
on account of a ~~patient or~~ resident or recipient by any liable 54224
relative, as defined in division (A) of section 5121.06 of the 54225
Revised Code, such relative may recover the following amounts from 54226
the following persons; provided, that in no event may such 54227
relative recover in total more than such relative has paid the 54228
state, and provided, that in no event is the person from whom 54229

recovery is sought obliged to pay at a rate of support higher than 54230
such person would have paid had the state proceeded directly 54231
against such person: 54232

~~(1)~~(A) Any liable person may recover from the ~~patient or~~ 54233
resident or recipient, ~~his~~ the resident's or recipient's guardian, 54234
or from the executor or administrator of the ~~patient's or~~ 54235
resident's or recipient's estate, the full amount of payment made 54236
by such liable relative. 54237

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 54238
resident's ~~husband or wife, or recipient's spouse~~ the full amount 54239
of payment made by such liable relative. 54240

~~(3)~~(C) A minor ~~patient's or~~ resident's or recipient's mother 54241
may recover from such minor ~~patient's or~~ resident's or recipient's 54242
father the full amount of payment made by such mother. 54243

~~(4)~~(D) Any liable relative, other than the ~~patient's or~~ 54244
resident's or recipient's spouse ~~and other than or~~ a minor 54245
~~patient's or~~ resident's or recipient's parent, may recover from 54246
such ~~of a patient's or~~ resident's or recipient's adult ~~sons and~~ 54247
~~daughters~~ children as are liable under division (A)(4) of section 54248
5121.06 of the Revised Code, the full amount of payment made by 54249
such liable relative; provided, that there may be recovered from 54250
each such ~~son or daughter~~ adult child only such proportion of the 54251
total payment as the figure one bears to the total number of such 54252
adult ~~sons and daughters~~ children. 54253

~~(5)~~(E) An adult ~~patient's or~~ resident's or recipient's mother 54254
may recover from an adult ~~patient's or~~ resident's or recipient's 54255
father the full amount of payment made by such mother. 54256

Sec. 5121.30. As used in sections 5121.30 to 5121.55 of the 54257
Revised Code: 54258

(A) "Countable assets" means all of the following: 54259

<u>(1) Cash;</u>	54260
<u>(2) Bank deposits;</u>	54261
<u>(3) Securities;</u>	54262
<u>(4) Individual retirement accounts;</u>	54263
<u>(5) Qualified employer plans, including 401(k) and Keogh plans;</u>	54264 54265
<u>(6) Pension funds;</u>	54266
<u>(7) Annuities;</u>	54267
<u>(8) Funds in a trust created under section 1339.51 of the Revised Code;</u>	54268 54269
<u>(9) Investment property and income;</u>	54270
<u>(10) The cash surrender values of life insurance policies;</u>	54271
<u>(11) Assets acquired by gift, bequest, devise, or inheritance;</u>	54272 54273
<u>(12) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u>	54274 54275
<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>	54276 54277 54278 54279 54280 54281 54282
<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>	54283 54284 54285 54286 54287 54288

(D) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code. 54289
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(E) "Liable relative" means both of the following: 54292

(1) A patient's spouse; 54293

(2) A patient's mother or father, or both, if the patient is under eighteen years of age. 54294
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(F) "Patient" means a person admitted to a hospital for inpatient care or treatment. 54296
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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. 54298
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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: 54308
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(A) The applicable per diem charge for each hospital operated by the department; 54311
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(B) The ancillary per diem rate for each hospital operated by the department. 54313
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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 54315
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hospital or, at the department's discretion, the average actual 54318
per diem cost of maintaining and treating a patient in a unit of 54319
the hospital. 54320

Sec. 5121.33. Except as provided in sections 5121.35, 54321
5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised 54322
Code, the department of mental health shall, for each billing 54323
cycle, charge a patient, patient's estate, or liable relative an 54324
amount equal to the sum of the following: 54325

(A) The applicable per diem charge multiplied by the number 54326
of days the patient was admitted to the hospital; 54327

(B) An amount that was previously billed but not paid. 54328

Sec. 5121.34. A patient, patient's estate, and patient's 54329
liable relatives shall be jointly and severally liable for amounts 54330
charged by the department of mental health in accordance with 54331
sections 5121.33 and 5121.35 of the Revised Code. In no case shall 54332
any of the foregoing persons be liable for more than one hundred 54333
per cent of any amount charged. 54334

Sec. 5121.35. The department of mental health shall charge a 54335
patient, patient's estate, or liable relative an amount discounted 54336
from the amount the department charges under section 5121.33 of 54337
the Revised Code if the department determines through the 54338
application process described in section 5121.36 of the Revised 54339
Code or through the financial assessment process described in 54340
section 5121.37 of the Revised Code that the patient, estate, or 54341
relative is eligible for a discount. 54342

Sec. 5121.36. (A) A patient, patient's estate, or liable 54343
relative may apply for a discount by completing an application 54344
form the director of mental health specifies in rules adopted 54345

under section 5121.55 of the Revised Code. The department of 54346
mental health may require a patient, estate, or relative to 54347
furnish any of the following with an application form: 54348

(1) A copy of the patient's, estate's, or liable relative's 54349
federal income tax return for the year preceding the date of 54350
application or, if that is not yet available, the preceding year; 54351

(2) A copy of the patient's, estate's, or liable relative's 54352
employee tax withholding return (form W-2) for the year preceding 54353
the date of application. 54354

(B) To be considered, an application must be submitted to the 54355
department not later than one hundred twenty days after the date 54356
the patient is admitted to a hospital. 54357

(C) From the information provided by a patient, estate, or 54358
relative, the department shall determine whether the department 54359
will charge the person a discounted amount in accordance with 54360
sections 5121.40 and 5121.41 of the Revised Code. In making this 54361
determination, the department shall consider whether the patient 54362
is covered by an insurance policy or other contract that provides 54363
for payment of expenses and treatment for mental illness. If the 54364
department determines that the patient has coverage, the 54365
department shall require payment in accordance with section 54366
5121.43 of the Revised Code. 54367

(D) The department shall notify the person who submitted the 54368
application form in writing regarding whether that person will be 54369
charged a discounted amount and the per diem rate to be charged. 54370

(E) In accordance with section 5121.42 of the Revised Code, 54371
the department may, at any time, modify an amount charged or 54372
change the per diem rate to be charged if the department learns of 54373
countable assets or income that was not previously disclosed or 54374
was acquired after the application form was submitted. Within a 54375

reasonable time, the department shall notify in writing any person 54376
affected by a modification or change. 54377

Sec. 5121.37. After a patient's admittance to a hospital, the 54378
department of mental health shall conduct a financial assessment 54379
to determine whether the patient, patient's estate, or liable 54380
relative will be charged an amount discounted from the amount the 54381
department charges under section 5121.33 of the Revised Code. The 54382
department shall make the determination in accordance with 54383
sections 5121.40 and 5121.41 of the Revised Code. 54384

If a discounted rate is to be charged, the department shall 54385
notify the person whose financial condition was assessed. The 54386
notice shall specify the per diem rate to be charged. 54387

In accordance with section 5121.42 of the Revised Code, the 54388
department may, at any time, modify an amount charged or change 54389
the per diem rate to be charged if the department learns of 54390
countable assets or income that was not previously disclosed or 54391
was acquired after the assessment was conducted. Within a 54392
reasonable time, the department shall notify in writing any person 54393
affected by a modification or change. 54394

Sec. 5121.38. The department of mental health may subpoena 54395
witnesses, take testimony under oath, and examine any public 54396
records relating to the income and other assets of a patient or of 54397
a relative liable for such patient's support. All information, 54398
conclusions, and recommendations shall be submitted to the 54399
department by the investigating agent of the department. 54400

Sec. 5121.39. The managing officers of the institutions under 54401
the control of the department of mental health shall submit to the 54402
department such information as they may obtain concerning the 54403
financial condition of any patient or relatives liable for the 54404

patient's support.

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Sec. 5121.40. (A) A patient, patient's estate, or liable relative may be eligible to be charged an amount discounted from the amount the department of mental health charges under section 5121.33 of the Revised Code if the patient, estate, or relative has countable assets with a total value that is not greater than an amount equal to fifty per cent of the gross annual income that corresponds with the family size of the patient, estate, or liable relative under the federal poverty guidelines. For purposes of determining family size, the patient is one dependent. One additional dependent shall be included for each of the following circumstances and persons:

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(1) The patient or liable relative is legally blind or deaf;

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(2) The patient or liable relative is of sixty-five years of age or older;

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(3) Each child under eighteen years of age for which the patient or liable relative is legally responsible for support;

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(4) The patient's or liable relative's spouse.

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(B) A patient, estate, or relative may, not later than one hundred twenty days after the patient's admission to a hospital, surrender the value of countable assets sufficient to reduce countable assets to not more than the limit described in division (A) of this section.

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Sec. 5121.41. (A) If the assets of a patient, patient's estate, or liable relative do not exceed the countable asset limit in section 5121.40 of the Revised Code and the annual income of the patient, estate, or relative does not exceed four hundred per cent of the federal poverty level, the patient, estate, or relative shall be charged an amount discounted from the amount the

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department charges under section 5121.33 of the Revised Code for 54434
the first thirty days the patient is admitted as an inpatient in a 54435
hospital. The amount of the discount shall be computed according 54436
to the following schedule: 54437

	<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>	54441
<u>Hospital</u>							54442
	<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>	54444
<u>15 - 30</u>	<u>100</u>	<u>95</u>	<u>75</u>	<u>55</u>	<u>35</u>	<u>15</u>	54445

(B) A patient, estate, or relative who is charged a 54446
discounted amount for the first thirty days the patient is 54447
admitted as an inpatient and who has an annual income not greater 54448
than one hundred seventy-five per cent of the federal poverty 54449
level shall not be charged for the days the patient is admitted 54450
beyond the thirtieth day. 54451

(C) A patient, estate, or relative who is charged a 54452
discounted amount for the first thirty days the patient is 54453
admitted as an inpatient and who has an annual income greater than 54454
one hundred seventy-five per cent of the federal poverty level 54455
shall be charged an amount equal to the sum of the following for 54456
the days the patient is admitted beyond the thirtieth day: 54457

(1) The ancillary per diem rate multiplied by the number of 54458
days the patient was admitted to the hospital; 54459

(2) An amount that was previously charged but not paid. 54460

Sec. 5121.42. (A) Except as provided in division (B) of this 54461
section, a patient, patient's estate, or liable relative shall 54462
cease to be eligible for a discount under sections 5121.36 or 54463

5121.37 of the Revised Code on accumulation of countable assets in excess of an amount equal to fifty per cent of the gross annual income that corresponds with the family size of the patient, estate, or relative plus one additional dependent under the federal poverty guidelines. In making this determination, an additional dependent shall be included for each of the following circumstances and persons: 54464
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(1) The patient or liable relative is legally blind or deaf; 54471

(2) The patient or liable relative is over sixty-five years of age; 54472
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(3) Each child under eighteen years of age for which the patient or liable relative is legally responsible for support; 54474
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(4) The patient's or liable relative's spouse. 54476

(B) Money needed to meet the patient's needs and burial fund as determined by a needs assessment conducted by the department of mental health pursuant to rules adopted under section 5119.01 of the Revised Code shall be excluded from any determination the department makes under division (A) of this section. 54477
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Sec. 5121.43. If a patient is covered by an insurance policy or other contract that provides for payment of expenses for care and treatment for mental illness at or from an institution, state-operated community mental health service, or facility, including a hospital or community service unit under the jurisdiction of the department of mental health, sections 5121.33 to 5121.55 of the Revised Code are inapplicable to the extent that the policy or contract is in force. Any insurance carrier or other third party payor providing coverage for such care and treatment shall pay for the patient's support obligation in amounts equal to the lesser of amounts charged by the department under section 5121.33 of the Revised Code or the benefits provided under the 54482
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policy or other contract. Whether or not an insured, owner of, or 54494
other person having an interest in such policy or other contract 54495
is liable for support payments, the insured, policy owner, or 54496
other person shall assign payment directly to the department of 54497
all assignable benefits under the policy or other contract and 54498
shall pay to the department, within ten days of receipt, all 54499
insurance or other benefits received as reimbursement or payment 54500
for expenses incurred by the patient or for any other reason. If 54501
the insured, policy owner, or other person refuses to assign 54502
payment to the department or refuses to pay received 54503
reimbursements or payments to the department within ten days of 54504
receipt, the total liability of the insured, policy owner, or 54505
other person for the services equals the sum of the following: 54506

(A) The amount computed under section 5121.33 of the Revised 54507
Code; 54508

(B) The amounts payable under the terms of the policy or 54509
other contract. 54510

In no event shall this total liability exceed the 54511
department's actual cost of providing care and treatment to a 54512
patient. The department may disqualify patients and liable 54513
relatives who have retained third party funds for future 54514
discounts. The department may request that the attorney general 54515
petition a court of competent jurisdiction to compel the insured, 54516
owner of, or other person having an interest in the policy or 54517
contract to comply with the assignment requirements in this 54518
section. 54519

Sec. 5121.44. The department of mental health may enter into 54520
an extended payment agreement with a patient, patient's estate, or 54521
liable relative who has notified the department that the patient, 54522
estate, or relative cannot reasonably pay an amount the department 54523

has charged. In no case shall the department take a security 54524
interest, mortgage, or lien against the principal family residence 54525
of a patient or liable relative with a dependent. 54526

Sec. 5121.45. (A) For purposes of this section, "delinquent 54527
payment" means an amount owed by a patient, patient's estate, or 54528
liable relative to the department of mental health for which the 54529
person has failed to do either of the following not later than 54530
ninety days after the service associated with the charge was 54531
incurred: 54532

(1) Make payment in full; 54533

(2) Make a payment in accordance with the terms of an 54534
agreement entered into under section 5121.44 of the Revised Code. 54535

(B) An action to enforce the collection of a delinquent 54536
payment shall be commenced not later than six years after the 54537
later of the following: 54538

(1) The last date the department received money to satisfy 54539
the delinquent payment; 54540

(2) The date the charge was due. 54541

(C) In all actions to enforce the collection of delinquent 54542
payments, a court of record shall receive into evidence the proof 54543
of claim document made by the state together with all debts and 54544
credits. The proof of claim document shall be prima-facie evidence 54545
of the facts stated in the document. 54546

Sec. 5121.46. The department of mental health shall not 54547
charge a liable relative under sections 5121.33 and 5121.35 of the 54548
Revised Code who has done either of the following: 54549

(A) Paid all amounts charged by the department for the care 54550
and treatment of a particular patient for fifteen consecutive 54551

years; 54552

(B) Paid amounts charged by the department for the care and treatment of more than one patient for a total of fifteen consecutive years. 54553
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Sec. 5121.47. Irrespective of the number of patients for which the department of mental health may charge a liable relative under sections 5121.33 or 5121.35 of the Revised Code, the department shall not charge a liable relative or group of liable relatives who are members of the same family unit for the support of more than one patient during the same period of time. 54556
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Sec. 5121.49. (A) Any person who has been charged under section 5121.33 or 5121.35 of the Revised Code may petition the department of mental health to do the following: 54562
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(1) Release the person from a charge; 54565

(2) Modify or cancel a charge. 54566

(B) The department shall respond to a petition in writing and inform the petitioner of whether a release, modification, or cancellation has been approved. 54567
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Sec. 5121.50. When a patient is committed to a hospital pursuant to judicial proceedings, the judge ordering the commitment shall: 54570
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(A) Make a reliable report on the financial condition of the patient and of each liable relative, as provided in rules adopted by the director of mental health; 54573
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(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter in the managing officer's records the name and address of any guardian appointed and of any relative 54576
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liable for the patient's support.

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Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support, without hardship to any others who may be dependent thereon, and no guardian has been appointed for such estate, the agent of the department of mental health shall petition the probate court of the proper county to appoint a guardian.

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Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of mental health may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 1339.51 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

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The department of mental health may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

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Sec. 5121.53. The state shall bear the expense of the burial or cremation of an indigent patient who dies in a hospital if the body is not claimed for interment or cremation at the expense of friends or relatives, or is not delivered for anatomical purposes

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or for the study of embalming in accordance with section 1713.34 54610
of the Revised Code. The managing officer of the hospital shall 54611
provide at the grave of the patient or, if the patient's cremated 54612
remains are buried, at the grave of the patient's cremated 54613
remains, a metal, stone, or concrete marker on which shall be 54614
inscribed the name and age of the patient and the date of death. 54615

Sec. 5121.54. (A) If payment of any amount due the state 54616
under the provisions of this chapter is made on account of a 54617
patient by any liable relative, as defined in section 5121.30 of 54618
the Revised Code, the relative may recover the following amounts 54619
from the following persons; provided, that in no event may a 54620
relative recover in total more than the relative has paid the 54621
state, and provided, that in no event is the person from whom 54622
recovery is sought obliged to pay at a rate of support higher than 54623
the person would have paid had the state proceeded directly 54624
against that person: 54625

(1) A liable relative may recover from the patient, the 54626
patient's guardian, or from the executor or administrator of the 54627
patient's estate, the full amount of payment made by the liable 54628
relative. 54629

(2) A parent may recover from the patient's or resident's 54630
spouse the full amount of payment made by the parent for 54631
hospitalization that occurred during the marriage. 54632

Sec. 5121.55. The director of mental health shall adopt rules 54633
in accordance with Chapter 119. of the Revised Code regarding the 54634
application form a person must use to apply for a discount as 54635
described in section 5121.36 of the Revised Code. 54636

Sec. 5122.03. A patient admitted under section 5122.02 of the 54637
Revised Code who requests ~~his~~ release in writing, or whose release 54638

is requested in writing by ~~his~~ the patient's counsel, legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except that when:

(A) The patient was admitted on ~~his~~ the patient's own application and the request for release is made by a person other than the patient, release may be conditional upon the agreement of the patient; or

(B) The chief clinical officer of the hospital, within three court days from the receipt of the request for release, files or causes to be filed with the court of the county where the patient is hospitalized or of the county where the patient is a resident, an affidavit under section 5122.11 of the Revised Code. Release 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 54670
reasonable means and arrangements for informing patients of their 54671
rights to release as provided in this section and for assisting 54672
them in making and presenting requests for release or for a 54673
hearing under section 5122.141 of the Revised Code. 54674

Before a patient is released from a public hospital, the 54675
chief clinical officer shall, when possible, notify the board of 54676
the patient's county of residence of the patient's pending release 54677
after ~~he~~ the chief clinical officer has informed the patient that 54678
the board will be so notified. 54679

Sec. 5122.31. (A) All certificates, applications, records, 54680
and reports made for the purpose of this chapter and sections 54681
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 54682
Code, other than court journal entries or court docket entries, 54683
and directly or indirectly identifying a patient or former patient 54684
or person whose hospitalization has been sought under this 54685
chapter, shall be kept confidential and shall not be disclosed by 54686
any person except: 54687

~~(A)~~(1) If the person identified, or the person's legal 54688
guardian, if any, or if the person is a minor, the person's parent 54689
or legal guardian, consents, and if the disclosure is in the best 54690
interests of the person, as may be determined by the court for 54691
judicial records and by the chief clinical officer for medical 54692
records; 54693

~~(B)~~(2) When disclosure is provided for in this chapter or 54694
section 5123.60 of the Revised Code; 54695

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and 54696
mental health services, and community mental health agencies may 54697
release necessary medical information to insurers and other 54698
third-party payers, including government entities responsible for 54699

processing and authorizing payment, to obtain payment for goods 54700
and services furnished to the patient; 54701

~~(D)~~(4) Pursuant to a court order signed by a judge; 54702

~~(E)~~(5) That a patient shall be granted access to the 54703
patient's own psychiatric and medical records, unless access 54704
specifically is restricted in a patient's treatment plan for clear 54705
treatment reasons; 54706

~~(F)~~(6) That hospitals and other institutions and facilities 54707
within the department of mental health may exchange psychiatric 54708
records and other pertinent information with other hospitals, 54709
institutions, and facilities of the department, and with community 54710
mental health agencies and boards of alcohol, drug addiction, and 54711
mental health services with which the department has a current 54712
agreement for patient care or services. Records and information 54713
that may be released pursuant to this division shall be limited to 54714
medication history, physical health status and history, financial 54715
status, summary of course of treatment in the hospital, summary of 54716
treatment needs, and a discharge summary, if any. 54717

~~(G)~~(7) That a patient's family member who is involved in the 54718
provision, planning, and monitoring of services to the patient may 54719
receive medication information, a summary of the patient's 54720
diagnosis and prognosis, and a list of the services and personnel 54721
available to assist the patient and the patient's family, if the 54722
patient's treating physician determines that the disclosure would 54723
be in the best interests of the patient. No such disclosure shall 54724
be made unless the patient is notified first and receives the 54725
information and does not object to the disclosure. 54726

~~(H)~~(8) That community mental health agencies may exchange 54727
psychiatric records and certain other information with the board 54728
of alcohol, drug addiction, and mental health services and other 54729
agencies in order to provide services to a person involuntarily 54730

committed to a board. Release of records under this division shall 54731
be limited to medication history, physical health status and 54732
history, financial status, summary of course of treatment, summary 54733
of treatment needs, and discharge summary, if any. 54734

~~(I)~~(9) That information may be disclosed to the executor or 54735
the administrator of an estate of a deceased patient when the 54736
information is necessary to administer the estate; 54737

~~(J)~~(10) That records in the possession of the Ohio historical 54738
society may be released to the closest living relative of a 54739
deceased patient upon request of that relative; 54740

~~(K)~~(11) That information may be disclosed to staff members of 54741
the appropriate board or to staff members designated by the 54742
director of mental health for the purpose of evaluating the 54743
quality, effectiveness, and efficiency of services and determining 54744
if the services meet minimum standards. Information obtained 54745
during such evaluations shall not be retained with the name of any 54746
patient. 54747

~~(L)~~(12) That records pertaining to the patient's diagnosis, 54748
course of treatment, treatment needs, and prognosis shall be 54749
disclosed and released to the appropriate prosecuting attorney if 54750
the patient was committed pursuant to section 2945.38, 2945.39, 54751
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 54752
attorney designated by the board for proceedings pursuant to 54753
involuntary commitment under this chapter. 54754

~~(M)~~(13) That the department of mental health may exchange 54755
psychiatric hospitalization records, other mental health treatment 54756
records, and other pertinent information with the department of 54757
rehabilitation and correction to ensure continuity of care for 54758
inmates who are receiving mental health services in an institution 54759
of the department of rehabilitation and correction. The department 54760
shall not disclose those records unless the inmate is notified, 54761

receives the information, and does not object to the disclosure. 54762
The release of records under this division is limited to records 54763
regarding an inmate's medication history, physical health status 54764
and history, summary of course of treatment, summary of treatment 54765
needs, and a discharge summary, if any. 54766

~~(N)~~(14) That a community mental health agency that ceases to 54767
operate may transfer to either a community mental health agency 54768
that assumes its caseload or to the board of alcohol, drug 54769
addiction, and mental health services of the service district in 54770
which the patient resided at the time services were most recently 54771
provided any treatment records that have not been transferred 54772
elsewhere at the patient's request. 54773

~~(O)~~(B) Before records are disclosed pursuant to divisions 54774
~~(C)~~(A)(3), ~~(F)~~(6), and ~~(H)~~(8) of this section, the custodian of 54775
the records shall attempt to obtain the patient's consent for the 54776
disclosure. No person shall reveal the contents of a medical 54777
record of a patient except as authorized by law. 54778

(C) The managing officer of a hospital who releases necessary 54779
medical information under division (A)(3) of this section to allow 54780
an insurance carrier or other third party payor to comply with 54781
section 5121.43 of the Revised Code shall neither be subject to 54782
criminal nor civil liability. 54783

Sec. 5123.01. As used in this chapter: 54784

(A) "Chief medical officer" means the licensed physician 54785
appointed by the managing officer of an institution for the 54786
mentally retarded with the approval of the director of mental 54787
retardation and developmental disabilities to provide medical 54788
treatment for residents of the institution. 54789

(B) "Chief program director" means a person with special 54790
training and experience in the diagnosis and management of the 54791

mentally retarded, certified according to division (C) of this 54792
section in at least one of the designated fields, and appointed by 54793
the managing officer of an institution for the mentally retarded 54794
with the approval of the director to provide habilitation and care 54795
for residents of the institution. 54796

(C) "Comprehensive evaluation" means a study, including a 54797
sequence of observations and examinations, of a person leading to 54798
conclusions and recommendations formulated jointly, with 54799
dissenting opinions if any, by a group of persons with special 54800
training and experience in the diagnosis and management of persons 54801
with mental retardation or a developmental disability, which group 54802
shall include individuals who are professionally qualified in the 54803
fields of medicine, psychology, and social work, together with 54804
such other specialists as the individual case may require. 54805

(D) "Education" means the process of formal training and 54806
instruction to facilitate the intellectual and emotional 54807
development of residents. 54808

(E) "Habilitation" means the process by which the staff of 54809
the institution assists the resident in acquiring and maintaining 54810
those life skills that enable the resident to cope more 54811
effectively with the demands of the resident's own person and of 54812
the resident's environment and in raising the level of the 54813
resident's physical, mental, social, and vocational efficiency. 54814
Habilitation includes but is not limited to programs of formal, 54815
structured education and training. 54816

(F) ~~"Habilitation center services" means services provided by~~ 54817
~~a habilitation center certified by the department of mental~~ 54818
~~retardation and developmental disabilities under section 5123.041~~ 54819
~~of the Revised Code and covered by the medicaid program pursuant~~ 54820
~~to rules adopted under section 5111.041 of the Revised Code.~~ 54821

(G) "Health officer" means any public health physician, 54822

public health nurse, or other person authorized or designated by a 54823
city or general health district. 54824

~~(H)~~(G) "Home and community-based services" means 54825
medicaid-funded home and community-based services specified in 54826
division (B)(1) of section 5111.87 of the Revised Code provided 54827
under the medicaid waiver components the department of mental 54828
retardation and developmental disabilities administers pursuant to 54829
section 5111.871 of the Revised Code. 54830

~~(I)~~(H) "Indigent person" means a person who is unable, 54831
without substantial financial hardship, to provide for the payment 54832
of an attorney and for other necessary expenses of legal 54833
representation, including expert testimony. 54834

~~(J)~~(I) "Institution" means a public or private facility, or a 54835
part of a public or private facility, that is licensed by the 54836
appropriate state department and is equipped to provide 54837
residential habilitation, care, and treatment for the mentally 54838
retarded. 54839

~~(K)~~(J) "Licensed physician" means a person who holds a valid 54840
certificate issued under Chapter 4731. of the Revised Code 54841
authorizing the person to practice medicine and surgery or 54842
osteopathic medicine and surgery, or a medical officer of the 54843
government of the United States while in the performance of the 54844
officer's official duties. 54845

~~(L)~~(K) "Managing officer" means a person who is appointed by 54846
the director of mental retardation and developmental disabilities 54847
to be in executive control of an institution for the mentally 54848
retarded under the jurisdiction of the department. 54849

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 54850
of the Revised Code. 54851

~~(N)~~(M) "Medicaid case management services" means case 54852
management services provided to an individual with mental 54853

retardation or other developmental disability that the state 54854
medicaid plan requires. 54855

~~(O)~~(N) "Mentally retarded person" means a person having 54856
significantly subaverage general intellectual functioning existing 54857
concurrently with deficiencies in adaptive behavior, manifested 54858
during the developmental period. 54859

~~(P)~~(O) "Mentally retarded person subject to 54860
institutionalization by court order" means a person eighteen years 54861
of age or older who is at least moderately mentally retarded and 54862
in relation to whom, because of the person's retardation, either 54863
of the following conditions exist: 54864

(1) The person represents a very substantial risk of physical 54865
impairment or injury to self as manifested by evidence that the 54866
person is unable to provide for and is not providing for the 54867
person's most basic physical needs and that provision for those 54868
needs is not available in the community; 54869

(2) The person needs and is susceptible to significant 54870
habilitation in an institution. 54871

~~(Q)~~(P) "A person who is at least moderately mentally 54872
retarded" means a person who is found, following a comprehensive 54873
evaluation, to be impaired in adaptive behavior to a moderate 54874
degree and to be functioning at the moderate level of intellectual 54875
functioning in accordance with standard measurements as recorded 54876
in the most current revision of the manual of terminology and 54877
classification in mental retardation published by the American 54878
association on mental retardation. 54879

~~(R)~~(O) As used in this division, "substantial functional 54880
limitation," "developmental delay," and "established risk" have 54881
the meanings established pursuant to section 5123.011 of the 54882
Revised Code. 54883

"Developmental disability" means a severe, chronic disability 54884

that is characterized by all of the following: 54885

(1) It is attributable to a mental or physical impairment or 54886
a combination of mental and physical impairments, other than a 54887
mental or physical impairment solely caused by mental illness as 54888
defined in division (A) of section 5122.01 of the Revised Code. 54889

(2) It is manifested before age twenty-two. 54890

(3) It is likely to continue indefinitely. 54891

(4) It results in one of the following: 54892

(a) In the case of a person under three years of age, at 54893
least one developmental delay or an established risk; 54894

(b) In the case of a person at least three years of age but 54895
under six years of age, at least two developmental delays or an 54896
established risk; 54897

(c) In the case of a person six years of age or older, a 54898
substantial functional limitation in at least three of the 54899
following areas of major life activity, as appropriate for the 54900
person's age: self-care, receptive and expressive language, 54901
learning, mobility, self-direction, capacity for independent 54902
living, and, if the person is at least sixteen years of age, 54903
capacity for economic self-sufficiency. 54904

(5) It causes the person to need a combination and sequence 54905
of special, interdisciplinary, or other type of care, treatment, 54906
or provision of services for an extended period of time that is 54907
individually planned and coordinated for the person. 54908

~~(S)~~(R) "Developmentally disabled person" means a person with 54909
a developmental disability. 54910

~~(F)~~(S) "State institution" means an institution that is 54911
tax-supported and under the jurisdiction of the department. 54912

~~(U)~~(T) "Residence" and "legal residence" have the same 54913

meaning as "legal settlement," which is acquired by residing in 54914
Ohio for a period of one year without receiving general assistance 54915
prior to July 17, 1995, under former Chapter 5113. of the Revised 54916
Code, financial assistance under Chapter 5115. of the Revised 54917
Code, or assistance from a private agency that maintains records 54918
of assistance given. A person having a legal settlement in the 54919
state shall be considered as having legal settlement in the 54920
assistance area in which the person resides. No adult person 54921
coming into this state and having a spouse or minor children 54922
residing in another state shall obtain a legal settlement in this 54923
state as long as the spouse or minor children are receiving public 54924
assistance, care, or support at the expense of the other state or 54925
its subdivisions. For the purpose of determining the legal 54926
settlement of a person who is living in a public or private 54927
institution or in a home subject to licensing by the department of 54928
job and family services, the department of mental health, or the 54929
department of mental retardation and developmental disabilities, 54930
the residence of the person shall be considered as though the 54931
person were residing in the county in which the person was living 54932
prior to the person's entrance into the institution or home. 54933
Settlement once acquired shall continue until a person has been 54934
continuously absent from Ohio for a period of one year or has 54935
acquired a legal residence in another state. A woman who marries a 54936
man with legal settlement in any county immediately acquires the 54937
settlement of her husband. The legal settlement of a minor is that 54938
of the parents, surviving parent, sole parent, parent who is 54939
designated the residential parent and legal custodian by a court, 54940
other adult having permanent custody awarded by a court, or 54941
guardian of the person of the minor, provided that: 54942

(1) A minor female who marries shall be considered to have 54943
the legal settlement of her husband and, in the case of death of 54944
her husband or divorce, she shall not thereby lose her legal 54945
settlement obtained by the marriage. 54946

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

~~(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.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

~~(W)~~(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday, 54978
Wednesday, Thursday, and Friday, except when such day is a legal 54979
holiday. 54980

~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village 54981
solicitor, city director of law, or similar chief legal officer 54982
who prosecuted a criminal case in which a person was found not 54983
guilty by reason of insanity, who would have had the authority to 54984
prosecute a criminal case against a person if the person had not 54985
been found incompetent to stand trial, or who prosecuted a case in 54986
which a person was found guilty. 54987

~~(Z)~~(Y) "Court" means the probate division of the court of 54988
common pleas. 54989

Sec. 5123.045. ~~(A)~~ No person or government entity shall 54990
receive payment for providing home and community-based services 54991
unless the person or government entity is one of the following: 54992

~~(1)~~(A) Certified under ~~this~~ section 5123.16 of the Revised 54993
Code; 54994

~~(2)~~(B) Certified as a supported living provider under section 54995
5126.431 of the Revised Code and certified under section 5123.16 54996
of the Revised Code; 54997

~~(3)~~(C) Licensed as a residential facility under section 54998
5123.19 of the Revised Code. ~~Division (A)(3) of this section does~~ 54999
~~not apply to an intermediate care facility for the mentally~~ 55000
~~retarded as defined in section 5111.20 of the Revised Code.~~ 55001

~~(B) The department of mental retardation and developmental~~ 55002
~~disabilities shall do all of the following in accordance with~~ 55003
~~Chapter 119. of the Revised Code:~~ 55004

~~(1) Certify a person or government entity to provide home and~~ 55005
~~community based services if the person or government entity~~ 55006
~~satisfies the requirements for certification established by rules~~ 55007

~~adopted under division (C) of this section;~~ 55008

~~(2) Revoke a certificate when required to do so by rules adopted under division (C) of this section;~~ 55009
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~~(3) Hold hearings when there is a dispute between the department and a person or government entity concerning actions the department takes or does not take under division (B)(1) or (2) of this section.~~ 55011
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~~(C) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and procedures for a person or government entity that seeks to provide home and community based services and is not certified as a supported living provider under section 5126.431 of the Revised Code or licensed as a residential facility under section 5123.19 of the Revised Code. The rules shall specify the program areas for which certification is required and include procedures for all of the following:~~ 55015
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~~(1) Ensuring that providers comply with section 5126.28 or 5126.281 of the Revised Code, as appropriate;~~ 55025
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~~(2) Evaluating the services provided to ensure that they are provided in a quality manner advantageous to the individual receiving the services. The procedures shall require that all of the following be considered as part of an evaluation:~~ 55027
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~~(a) The provider's experience and financial responsibility;~~ 55031

~~(b) The provider's ability to comply with standards for the home and community based services that the provider provides;~~ 55032
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~~(c) The provider's ability to meet the needs of the individuals served;~~ 55034
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~~(d) Any other factor the director considers relevant.~~ 55036

~~(3) Determining when to revoke a provider's certificate. The~~ 55037

~~reasons for which a certificate may be revoked may include good 55038
cause, including misfeasance, malfeasance, nonfeasance, confirmed 55039
abuse or neglect, financial irresponsibility, or other conduct the 55040
director determines is injurious to individuals being served. 55041~~

~~(D) The records of an evaluation conducted in accordance with 55042
rules adopted under division (C)(2) of this section are public 55043
records for purposes of section 149.43 of the Revised Code and 55044
shall be made available on request of any person, including 55045
individuals being served, individuals seeking home and 55046
community based services, and county boards of mental retardation 55047
and developmental disabilities. 55048~~

Sec. 5123.046. The department of mental retardation and 55049
developmental disabilities shall review each component of the 55050
three-calendar year plan it receives from a county board of mental 55051
retardation and developmental disabilities under section 5126.054 55052
of the Revised Code and, in consultation with the department of 55053
job and family services and office of budget and management, 55054
approve each component that includes all the information and 55055
conditions specified in that section. The fourth component of the 55056
plan shall be approved or disapproved not later than forty-five 55057
days after the fourth component is submitted to the department 55058
under division (B)(3) of section 5126.054 of the Revised Code. If 55059
the department approves all four components of the plan, the plan 55060
is approved. Otherwise, the plan is disapproved. If the plan is 55061
disapproved, the department shall take action against the county 55062
board under division (B) of section 5126.056 of the Revised Code. 55063

In approving plans under this section, the department shall 55064
ensure that the aggregate of all plans provide for the increased 55065
enrollment into home and community-based services during each 55066
state fiscal year of at least five hundred individuals who did not 55067
receive residential services, supported living, or home and 55068

community-based services the prior state fiscal year if the 55069
department has enough additional enrollment available for this 55070
purpose. 55071

The department shall establish protocols that the department 55072
shall use to determine whether a county board is complying with 55073
the programmatic and financial accountability mechanisms and 55074
achieving outcomes specified in its approved plan. If the 55075
department determines that a county board is not in compliance 55076
with the mechanisms or achieving the outcomes specified in its 55077
approved plan, the department may take action under division 55078
(G)(F) of section 5126.055 of the Revised Code. 55079

Sec. 5123.047. (A) ~~The department of mental retardation and 55080
developmental disabilities shall pay the nonfederal share of 55081
medicaid expenditures for habilitation center services provided to 55082
an individual with mental retardation or other developmental 55083
disability unless section 5111.041 of the Revised Code requires a 55084
county board of mental retardation and developmental disabilities 55085
or a school district to pay the nonfederal share. 55086~~

~~(B) The department of mental retardation and developmental 55087
disabilities shall pay the nonfederal share of medicaid 55088
expenditures for medicaid case management services if ~~either of 55089
the following apply:~~ 55090~~

~~(1) The the services are provided to an individual with 55091
mental retardation or other developmental disability who a county 55092
board of mental retardation and developmental disabilities has 55093
determined under section 5126.041 of the Revised Code is not 55094
eligible for county board services. 55095~~

~~(2) The services are provided to an individual with mental 55096
retardation or other developmental disability by a public or 55097
private agency with which the department has contracted under 55098~~

~~section 5123.56 of the Revised Code to provide protective services to the individual.~~ 55099
55100

~~(C)~~(B) The department shall pay the nonfederal share of 55101
medicaid expenditures for home and community-based services if 55102
~~either~~ any of the following apply: 55103

(1) The services are provided to an individual with mental 55104
retardation or other developmental disability who a county board 55105
has determined under section 5126.041 of the Revised Code is not 55106
eligible for county board services; 55107

(2) The services are provided to an individual with mental 55108
retardation or other developmental disability given priority for 55109
the services pursuant to division (D)(3) of section 5126.042 of 55110
the Revised Code. The department shall pay the nonfederal share of 55111
medicaid expenditures for home and community-based services 55112
provided to such an individual for as long as the individual 55113
continues to be eligible for and receive the services, regardless 55114
of whether the services are provided after June 30, 2003. 55115

(3) An agreement entered into under section 5123.048 of the 55116
Revised Code requires that the department pay the nonfederal share 55117
of medicaid expenditures for the services. 55118

Sec. 5123.048. The director of mental retardation and 55119
developmental disabilities may enter into an agreement with a 55120
county board of mental retardation and developmental disabilities 55121
under which the department of mental retardation and developmental 55122
disabilities is to pay the nonfederal share of medicaid 55123
expenditures for home and community-based services provided to 55124
individuals with mental retardation or other developmental 55125
disability residing in the county served by the county board if 55126
the agreement is necessary for home and community-based services 55127
to be available statewide. 55128

Sec. 5123.049. The director of mental retardation and 55129
developmental disabilities shall adopt rules in accordance with 55130
Chapter 119. of the Revised Code governing the authorization and 55131
payment of home and community-based services, and medicaid case 55132
management services, ~~and habilitation center services~~. The rules 55133
shall provide for private providers of the services to receive one 55134
hundred per cent of the medicaid allowable payment amount and for 55135
government providers of the services to receive the federal share 55136
of the medicaid allowable payment, less the amount withheld as a 55137
fee under section 5123.0412 of the Revised Code and any amount 55138
that may be required by rules adopted under section 5123.0413 of 55139
the Revised Code to be deposited into the state MR/DD risk fund. 55140
The rules shall establish the process by which county boards of 55141
mental retardation and developmental disabilities shall certify 55142
and provide the nonfederal share of medicaid expenditures that the 55143
county board is required by division (A) of section 5126.057 of 55144
the Revised Code to pay. The process shall require a county board 55145
to certify that the county board has funding available at one time 55146
for two months costs for those expenditures. The process may 55147
permit a county board to certify that the county board has funding 55148
available at one time for more than two months costs for those 55149
expenditures. 55150

Sec. 5123.0412. (A) The department of mental retardation and 55151
developmental disabilities shall charge each county board of 55152
mental retardation and developmental disabilities an annual fee 55153
equal to one and one-half per cent of the total value of all 55154
medicaid paid claims for medicaid case management services and 55155
home and community-based services ~~for which the county board~~ 55156
~~contracts or provides itself~~ provided during the year to an 55157
individual eligible for services from the county board. No county 55158
board shall pass the cost of a fee charged to the county board 55159

under this section on to a ~~person or government entity with which~~ 55160
~~the county board contracts to provide the~~ another provider of 55161
these services. 55162

(B) The fees collected under this section shall be deposited 55163
into the ODMR/DD administration and oversight fund and the ODJFS 55164
administration and oversight fund, both of which are hereby 55165
created in the state treasury. The portion of the fees to be 55166
deposited into the ODMR/DD administration and oversight fund and 55167
the portion of the fees to be deposited into the ODJFS 55168
administration and oversight fund shall be the portion specified 55169
in an interagency agreement entered into under division (C) of 55170
this section. The department of mental retardation and 55171
developmental disabilities shall use the money in the ODMR/DD 55172
administration and oversight fund and the department of job and 55173
family services shall use the money in the ODJFS administration 55174
and oversight fund for both of the following purposes: 55175

(1) The administrative and oversight costs of ~~habilitation~~ 55176
~~center services,~~ medicaid case management services, and home and 55177
community-based services ~~that a county board develops and monitors~~ 55178
~~and the county board or a person or government entity under~~ 55179
~~contract with the county board provides.~~ The administrative and 55180
oversight costs shall include costs for staff, systems, and other 55181
resources the departments need and dedicate solely to the 55182
following duties associated with the services: 55183

- (a) Eligibility determinations; 55184
- (b) Training; 55185
- (c) Fiscal management; 55186
- (d) Claims processing; 55187
- (e) Quality assurance oversight; 55188
- (f) Other duties the departments identify. 55189

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services. 55190
55191
55192

(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: 55193
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55195

(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; 55196
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(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. 55200
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(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. 55203
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Sec. 5123.16. (A) In accordance with Chapter 119. of the Revised Code, the director of mental retardation and developmental disabilities shall adopt and may amend and rescind rules for the certification of persons or government entities that provide or propose to provide home and community-based waiver services. The rules shall establish or specify all of the following: 55208
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(1) Procedures for issuing and renewing certification and establishing expiration dates for currently certified providers; 55214
55215

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking certification in accordance with this section and Chapter 119. of the Revised Code; 55216
55217
55218

(3) Procedures for ordering the suspension of a certified 55219

provider's certification; 55220

(4) Fees for issuing and renewing certification. All fees 55221
collected pursuant to this section shall be deposited in the state 55222
treasury to the credit of the provider certification fund, which 55223
is hereby created. Money credited to the fund shall be used solely 55224
for the operation of the provider certification program 55225
established under this section. 55226

(5) Program services for which certification is required and 55227
provider standards for those services; 55228

(6) Procedures for certification; 55229

(7) Procedures for ensuring that providers comply with 55230
sections 5123.52 and 5126.281 of the Revised Code. 55231

(B) A provider's certification may be terminated when the 55232
certified provider has not billed for services for a period of 55233
more than twelve consecutive months and the provider has been 55234
notified in accordance with Chapter 119. of the Revised Code. 55235

(C) The director may suspend or revoke a provider's 55236
certification in accordance with Chapter 119. of the Revised Code 55237
for good cause, including misfeasance, malfeasance, nonfeasance, 55238
confirmed abuse or neglect, noncompliance with provider 55239
certification standards, financial irresponsibility, or other 55240
conduct the department determines is injurious to individuals 55241
being served. 55242

(D)(1) The director may suspend a certified provider's 55243
certification to serve one or more individuals currently served by 55244
the provider in one or more counties before providing an 55245
opportunity for an adjudication under Chapter 119. of the Revised 55246
Code when the director determines that the certified provider has 55247
demonstrated a pattern of serious noncompliance with certification 55248
standards or that a violation of certification standards creates a 55249

substantial risk to the health and safety of an individual served 55250
by the certified provider and both the following conditions are 55251
met: 55252

(a) The individual or guardian, as appropriate, has been made 55253
aware of the patterns of serious noncompliance or violations of 55254
certification standards that create a substantial risk to the 55255
health and safety of the individual, and the individual or 55256
guardian does not choose to select another certified provider; and 55257

(b) A county board of mental retardation and developmental 55258
disabilities has filed a compliant with the probate court in 55259
accordance with section 5126.33 of the Revised Code and the 55260
probate court does not issue an order authorizing the board to 55261
arrange protective services for the individual. 55262

(2) The director may suspend a certified provider's 55263
certification to begin to serve one or more individuals not 55264
currently being served by the provider in one or more counties 55265
before providing an opportunity for an adjudication under Chapter 55266
119. of the Revised Code when the director determines that the 55267
certified provider has demonstrated a pattern of serious 55268
noncompliance with certification standards or that a violation of 55269
certification standards creates a substantial risk to the health 55270
and safety of an individual served by the certified provider. 55271

(3) Except as provided in division (D)(4) of this section, 55272
appeals from proceedings initiated to terminate a provider's 55273
certification under division (B) of this section or to suspend or 55274
revoke a provider's certification under division (C) of this 55275
section shall be conducted in accordance with Chapter 119. of the 55276
Revised Code. 55277

(4) Appeals from proceedings initiated to order the 55278
suspension of a certified provider's certification shall be 55279
conducted in accordance with Chapter 119. of the Revised Code, 55280

unless the order was issued before providing an opportunity for an 55281
adjudication, in which case all of the following apply: 55282

(a) The department shall notify the certified provider within 55283
twenty-four hours of ordering of the suspension. 55284

(b) The certified provider may request a hearing not later 55285
than ten days after receiving the notice specified in section 55286
119.07 of the Revised Code. 55287

(c) If a timely request for a hearing is made, the hearing 55288
shall commence not later than thirty days after the department 55289
receives the request. 55290

(d) After commencing, the hearing shall continue, 55291
uninterrupted, except for Saturdays, Sundays, and legal holidays, 55292
unless other interruptions are agreed to by the provider and the 55293
director. 55294

(e) If the hearing is conducted by a hearing examiner, the 55295
hearing examiner shall file a report and recommendations not later 55296
than ten days after the close of the hearing. For purposes of 55297
division (D)(4)(d) of this section, the hearing shall not be 55298
considering closed until the hearing examiner receives the 55299
transcript of the hearing, if a transcript is ordered, and all 55300
post-hearing briefs, if any, are timely filed. 55301

(f) A copy of such written report and recommendations of the 55302
hearing examiner shall, within five days of the date of the filing 55303
thereof, be served upon the provider or the provider's attorney, 55304
by certified mail. 55305

(g) The provider may file objections to the report and 55306
recommendations not later than five days after the receipt of the 55307
report and recommendations. 55308

(h) No recommendation of the hearing examiner shall be 55309
approved, modified, or disapproved by the department until five 55310

days after service of the hearing examiner's report and 55311
recommendations upon the provider or the provider's attorney. 55312

(i) Not later than fifteen days after the service of such 55313
report and recommendations of the hearing examiner upon the 55314
provider or the provider's attorney, the director shall issue an 55315
order approving, modifying, or disapproving the report and 55316
recommendation. 55317

(j) The order shall be lifted when the provider has submitted 55318
an acceptable plan of compliance and the department determines the 55319
plan of compliance has been appropriately implemented. 55320

(k) Following the issuance of an adjudication order by the 55321
director, the provider may appeal the order in accordance with 55322
section 119.12 of the Revised Code. 55323

(l) Notwithstanding the pendency of the hearing, the director 55324
shall lift the order for the suspension of the certified 55325
provider's certification under division (D)(1) or (D)(2) of this 55326
section when the director determines that the violation that 55327
formed the basis for the order has been corrected. The hearing 55328
shall continue unless the provider withdraws, in writing, the 55329
appeal of the department's suspension. 55330

(E) All applicants for or holders of certification under this 55331
section shall maintain a current address with the director at all 55332
times. 55333

(F) An applicant whose certification has been denied in 55334
accordance with this section may not apply to become a certified 55335
provider within one year of the date of the applicant's denial of 55336
certification. A certified provider whose certification has been 55337
revoked in accordance with this section may not apply for 55338
certification within five years of the revocation of the certified 55339
provider's certification. 55340

(G) The records of surveys of providers conducted in accordance with this section are public records for purposes of section 149.43 of the Revised Code and shall be made available upon request of any person, including individuals being served, individuals seeking supported living, and county boards of mental retardation and developmental disabilities.

(H) The certification of a provider that is certified to provide supported living on the effective date of the amendment of this section shall remain in effect until the department establishes an expiration date for the certification unless the certification is voluntarily surrendered or terminated, suspended or revoked in accordance with this section.

(I) As used in this section, "home and community-based services" has the same meaning as in section 5126.01 of the Revised Code.

(J) The director of mental retardation and developmental disabilities shall not apply any provisions of sections 5126.40 to 5126.47 of the Revised Code to any provider of home and community-based services certified under this section.

Sec. 5123.34. This chapter attempts to do all of the following:

(A) Provide humane and scientific treatment and care and the highest attainable degree of individual development for persons with mental retardation or a developmental disability;

(B) Promote the study of the causes of mental retardation and developmental disabilities, with a view to ultimate prevention;

(C) Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions under the control of the department of mental retardation and developmental disabilities.

Sections 5123.02 to 5123.04, ~~5123.041 to 5123.042~~, 5123.043, 55371
5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised 55372
Code shall be liberally construed to attain these purposes. 55373

Sec. 5123.41. As used in this section and sections 5123.42 to 55374
5123.47 of the Revised Code: 55375

(A) "Adult services" has the same meaning as in section 55376
5126.01 of the Revised Code. 55377

(B) "Certified home and community-based services provider" 55378
means a person or government entity certified under section 55379
~~5123.045~~ 5123.16 of the Revised Code. 55380

(C) "Certified supported living provider" means a person or 55381
government entity certified under section 5126.431 of the Revised 55382
Code. 55383

(D) "Drug" has the same meaning as in section 4729.01 of the 55384
Revised Code. 55385

(E) "Family support services" has the same meaning as in 55386
section 5126.01 of the Revised Code. 55387

(F) "Health-related activities" means the following: 55388

(1) Taking vital signs; 55389

(2) Application of clean dressings that do not require health 55390
assessment; 55391

(3) Basic measurement of bodily intake and output; 55392

(4) Oral suctioning; 55393

(5) Use of glucometers; 55394

(6) External urinary catheter care; 55395

(7) Emptying and replacing colostomy bags; 55396

(8) Collection of specimens by noninvasive means. 55397

(G) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code. 55398
55399
55400

(H) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 55401
55402

(I) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows: 55403
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(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities; 55407
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(2) Through an entity under contract with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities; 55410
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(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities. 55413
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(J) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task. 55416
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(K) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs. 55423
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55425

(L) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code or subject to section 5123.192 55426
55427

of the Revised Code. 55428

(M) "Specialized services" has the same meaning as in section 55429
5123.50 of the Revised Code. 55430

(N) "Tube feeding" means the provision of nutrition to an 55431
individual through a gastrostomy tube or a jejunostomy tube. 55432

Sec. 5123.701. (A) Except as provided in division (E) of this 55433
section, any person in the community who is eighteen years of age 55434
or older and who is or believes self to be mentally retarded may 55435
make written application to the managing officer of any 55436
institution for temporary admission for short-term care. The 55437
application may be made on behalf of a minor by a parent or 55438
guardian, and on behalf of an adult adjudicated mentally 55439
incompetent by a guardian. 55440

(B) For purposes of this section, short-term care shall be 55441
defined to mean appropriate services provided to a person with 55442
mental retardation for no more than fourteen consecutive days and 55443
for no more than forty-two days in a fiscal year. When 55444
circumstances warrant, the fourteen-day period may be extended at 55445
the discretion of the managing officer. Short-term care is 55446
provided in a developmental center to meet the family's or 55447
caretaker's needs for separation from the person with mental 55448
retardation. 55449

(C) The managing officer of an institution, with the 55450
concurrence of the chief program director, may admit a person for 55451
short-term care only after a medical examination has been made of 55452
the person and only if the managing officer concludes that the 55453
person is mentally retarded. 55454

(D) If application for admission for short-term care of a 55455
minor or of a person adjudicated mentally incompetent is made by 55456
the minor's parent or guardian or by the incompetent's guardian 55457

and the minor or incompetent is admitted, the probate division of 55458
the court of common pleas shall determine, upon petition by the 55459
legal rights service, whether the admission for short-term care is 55460
in the best interest of the minor or the incompetent. 55461

(E) A person who is found not guilty by reason of insanity 55462
shall not admit self to an institution for short-term care unless 55463
a hearing was held regarding the person pursuant to division (A) 55464
of section 2945.40 of the Revised Code and either of the following 55465
applies: 55466

(1) The person was found at the hearing not to be a mentally 55467
retarded person subject to institutionalization by court order; 55468

(2) The person was found at the hearing to be a mentally 55469
retarded person subject to institutionalization by court order, 55470
was involuntarily committed, and was finally discharged. 55471

(F) The mentally retarded person, liable relatives, and 55472
guardians of mentally retarded persons admitted for respite care 55473
shall pay support charges in accordance with sections ~~5121.03~~ 55474
5121.01 to 5121.07 of the Revised Code. 55475

(G) At the conclusion of each period of short-term care, the 55476
person shall return to the person's family or caretaker. Under no 55477
circumstances shall a person admitted for short-term care 55478
according to this section remain in the institution after the 55479
period of short-term care unless the person is admitted according 55480
to section 5123.70, sections 5123.71 to 5123.76, or section 55481
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 55482
Code. 55483

Sec. 5123.71. (A)(1) Proceedings for the involuntary 55484
institutionalization of a person pursuant to sections 5123.71 to 55485
5123.76 of the Revised Code shall be commenced by the filing of an 55486
affidavit with the probate division of the court of common pleas 55487

of the county where the person resides or where the person is 55488
institutionalized, in the manner and form prescribed by the 55489
department of mental retardation and developmental disabilities 55490
either on information or actual knowledge, whichever is determined 55491
to be proper by the court. The affidavit may be filed only by a 55492
person who has custody of the individual as a parent, guardian, or 55493
service provider or by a person acting on behalf of the department 55494
or a county board of mental retardation and developmental 55495
disabilities. This section does not apply regarding the 55496
institutionalization of a person pursuant to section 2945.39, 55497
2945.40, 2945.401, or 2945.402 of the Revised Code. 55498

The affidavit shall contain an allegation setting forth the 55499
specific category or categories under division ~~(P)~~(O) of section 55500
5123.01 of the Revised Code upon which the commencement of 55501
proceedings is based and a statement of the factual ground for the 55502
belief that the person is a mentally retarded person subject to 55503
institutionalization by court order. Except as provided in 55504
division (A)(2) of this section, the affidavit shall be 55505
accompanied by both of the following: 55506

(a) A comprehensive evaluation report prepared by the 55507
person's evaluation team that includes a statement by the members 55508
of the team certifying that they have performed a comprehensive 55509
evaluation of the person and that they are of the opinion that the 55510
person is a mentally retarded person subject to 55511
institutionalization by court order; 55512

(b) An assessment report prepared by the county board of 55513
mental retardation and developmental disabilities under section 55514
5123.711 of the Revised Code specifying that the individual is in 55515
need of services on an emergency or priority basis. 55516

(2) In lieu of the comprehensive evaluation report, the 55517
affidavit may be accompanied by a written and sworn statement that 55518
the person or the guardian of a person adjudicated incompetent has 55519

refused to allow a comprehensive evaluation and county board
assessment and assessment reports. Immediately after accepting an
affidavit that is not accompanied by the reports of a
comprehensive evaluation and county board assessment, the court
shall cause a comprehensive evaluation and county board assessment
of the person named in the affidavit to be performed. The
evaluation shall be conducted in the least restrictive environment
possible and the assessment shall be conducted in the same manner
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 55551
court-appointed counsel and have independent expert evaluation at 55552
court expense; 55553

(3) Upon request, have a hearing to determine whether there 55554
is probable cause to believe that the person is a mentally 55555
retarded person subject to institutionalization by court order. 55556

(C) No person who is being treated by spiritual means through 55557
prayer alone in accordance with a recognized religious method of 55558
healing may be ordered detained or involuntarily committed unless 55559
the court has determined that the person represents a very 55560
substantial risk of self-impairment, self-injury, or impairment or 55561
injury to others. 55562

Sec. 5123.76. (A) The full hearing shall be conducted in a 55563
manner consistent with the procedures outlined in this chapter and 55564
with due process of law. The hearing shall be held by a judge of 55565
the probate division or, upon transfer by the judge of the probate 55566
division, by another judge of the court of common pleas, or a 55567
referee designated by the judge of the probate division. Any 55568
referee designated by the judge of the probate division must be an 55569
attorney. 55570

(1) The following shall be made available to counsel for the 55571
respondent: 55572

(a) All relevant documents, information, and evidence in the 55573
custody or control of the state or prosecutor; 55574

(b) All relevant documents, information, and evidence in the 55575
custody or control of the institution, facility, or program in 55576
which the respondent currently is held or in which the respondent 55577
has been held pursuant to these proceedings; 55578

(c) With the consent of the respondent, all relevant 55579
documents, information, and evidence in the custody or control of 55580

any institution or person other than the state. 55581

(2) The respondent has the right to be represented by counsel 55582
of the respondent's choice and has the right to attend the hearing 55583
except if unusual circumstances of compelling medical necessity 55584
exist that render the respondent unable to attend and the 55585
respondent has not expressed a desire to attend. 55586

(3) If the respondent is not represented by counsel and the 55587
court determines that the conditions specified in division (A)(2) 55588
of this section justify the respondent's absence and the right to 55589
counsel has not been validly waived, the court shall appoint 55590
counsel forthwith to represent the respondent at the hearing, 55591
reserving the right to tax costs of appointed counsel to the 55592
respondent unless it is shown that the respondent is indigent. If 55593
the court appoints counsel, or if the court determines that the 55594
evidence relevant to the respondent's absence does not justify the 55595
absence, the court shall continue the case. 55596

(4) The respondent shall be informed of the right to retain 55597
counsel, to have independent expert evaluation, and, if an 55598
indigent person, to be represented by court appointed counsel and 55599
have expert independent evaluation at court expense. 55600

(5) The hearing may be closed to the public unless counsel 55601
for the respondent requests that the hearing be open to the 55602
public. 55603

(6) Unless objected to by the respondent, the respondent's 55604
counsel, or the designee of the director of mental retardation and 55605
developmental disabilities, the court, for good cause shown, may 55606
admit persons having a legitimate interest in the proceedings. 55607

(7) The affiant under section 5123.71 of the Revised Code 55608
shall be subject to subpoena by either party. 55609

(8) The court shall examine the sufficiency of all documents 55610

filed and shall inform the respondent, if present, and the
respondent's counsel of the nature of the content of the documents
and the reason for which the respondent is being held or for which
the respondent's placement is being sought.

(9) The court shall receive only relevant, competent, and
material evidence.

(10) The designee of the director shall present the evidence
for the state. In proceedings under this chapter, the attorney
general shall present the comprehensive evaluation, assessment,
diagnosis, prognosis, record of habilitation and care, if any, and
less restrictive habilitation plans, if any. The attorney general
does not have a similar presentation responsibility in connection
with a person who has been found not guilty by reason of insanity
and who is the subject of a hearing under section 2945.40 of the
Revised Code to determine whether the person is a mentally
retarded person subject to institutionalization by court order.

(11) The respondent has the right to testify and the
respondent or the respondent's counsel has the right to subpoena
witnesses and documents and to present and cross-examine
witnesses.

(12) The respondent shall not be compelled to testify and
shall be so advised by the court.

(13) On motion of the respondent or the respondent's counsel
for good cause shown, or upon the court's own motion, the court
may order a continuance of the hearing.

(14) To an extent not inconsistent with this chapter, the
Rules of Civil Procedure shall be applicable.

(B) Unless, upon completion of the hearing, the court finds
by clear and convincing evidence that the respondent named in the
affidavit is a mentally retarded person subject to

institutionalization by court order, it shall order the 55641
respondent's discharge forthwith. 55642

(C) If, upon completion of the hearing, the court finds by 55643
clear and convincing evidence that the respondent is a mentally 55644
retarded person subject to institutionalization by court order, 55645
the court may order the respondent's discharge or order the 55646
respondent, for a period not to exceed ninety days, to any of the 55647
following: 55648

(1) A public institution, provided that commitment of the 55649
respondent to the institution will not cause the institution to 55650
exceed its licensed capacity determined in accordance with section 55651
5123.19 of the Revised Code and provided that such a placement is 55652
indicated by the comprehensive evaluation report filed pursuant to 55653
section 5123.71 of the Revised Code; 55654

(2) A private institution; 55655

(3) A county mental retardation program; 55656

(4) Receive private habilitation and care; 55657

(5) Any other suitable facility, program, or the care of any 55658
person consistent with the comprehensive evaluation, assessment, 55659
diagnosis, prognosis, and habilitation needs of the respondent. 55660

(D) Any order made pursuant to division (C)(2), (4), or (5) 55661
of this section shall be conditional upon the receipt by the court 55662
of consent by the facility, program, or person to accept the 55663
respondent. 55664

(E) In determining the place to which, or the person with 55665
whom, the respondent is to be committed, the court shall consider 55666
the comprehensive evaluation, assessment, diagnosis, and projected 55667
habilitation plan for the respondent, and shall order the 55668
implementation of the least restrictive alternative available and 55669
consistent with habilitation goals. 55670

(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.

(2) The director of the facility or program or the person shall notify the respondent's counsel and the designee of the director of mental retardation and developmental disabilities.

(3) The court shall dismiss the case or order placement in the less restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section may apply at any time during the ninety-day period for voluntary admission to an institution under section 5123.69 of the Revised Code. Upon admission of a voluntary resident, the managing officer immediately shall notify the court, the respondent's counsel, and the designee of the director in writing of that fact by mail or otherwise, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not be voluntarily admitted to an institution pursuant to division (G)(1) of this section until after the termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of any commitment period, the respondent

has not already been discharged or has not requested voluntary admission status, the director of the facility or program, or the person to whose care the respondent has been committed, shall discharge the respondent forthwith, unless at least ten days before the expiration of that period the designee of the director of mental retardation and developmental disabilities or the prosecutor files an application with the court requesting continued commitment.

(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 55734
expiration of any subsequent period of commitment set by the 55735
court. 55736

(4) A mandatory hearing shall be held at least every two 55737
years after the initial commitment. 55738

(5) If the court, after a hearing upon a request to continue 55739
commitment, finds that the respondent is a mentally retarded 55740
person subject to institutionalization by court order, the court 55741
may make an order pursuant to divisions (C), (D), and (E) of this 55742
section. 55743

(I) Notwithstanding the provisions of division (H) of this 55744
section, no person who is found to be a mentally retarded person 55745
subject to institutionalization by court order pursuant to 55746
division ~~(P)~~(O)(2) of section 5123.01 of the Revised Code shall be 55747
held under involuntary commitment for more than five years. 55748

(J) The managing officer admitting a person pursuant to a 55749
judicial proceeding, within ten working days of the admission, 55750
shall make a report of the admission to the department. 55751

Sec. 5126.01. As used in this chapter: 55752

(A) As used in this division, "adult" means an individual who 55753
is eighteen years of age or over and not enrolled in a program or 55754
service under Chapter 3323. of the Revised Code and an individual 55755
sixteen or seventeen years of age who is eligible for adult 55756
services under rules adopted by the director of mental retardation 55757
and developmental disabilities pursuant to Chapter 119. of the 55758
Revised Code. 55759

(1) "Adult services" means services provided to an adult 55760
outside the home, except when they are provided within the home 55761
according to an individual's assessed needs and identified in an 55762
individual service plan, that support learning and assistance in 55763

the area of self-care, sensory and motor development, 55764
socialization, daily living skills, communication, community 55765
living, social skills, or vocational skills. 55766

(2) "Adult services" includes all of the following: 55767

(a) Adult day habilitation services; 55768

(b) Adult day care; 55769

(c) Prevocational services; 55770

(d) Sheltered employment; 55771

(e) Educational experiences and training obtained through 55772
entities and activities that are not expressly intended for 55773
individuals with mental retardation and developmental 55774
disabilities, including trade schools, vocational or technical 55775
schools, adult education, job exploration and sampling, unpaid 55776
work experience in the community, volunteer activities, and 55777
spectator sports; 55778

(f) Community employment services and supported employment 55779
services. 55780

(B)(1) "Adult day habilitation services" means adult services 55781
that do the following: 55782

(a) Provide access to and participation in typical activities 55783
and functions of community life that are desired and chosen by the 55784
general population, including such activities and functions as 55785
opportunities to experience and participate in community 55786
exploration, companionship with friends and peers, leisure 55787
activities, hobbies, maintaining family contacts, community 55788
events, and activities where individuals without disabilities are 55789
involved; 55790

(b) Provide supports or a combination of training and 55791
supports that afford an individual a wide variety of opportunities 55792
to facilitate and build relationships and social supports in the 55793

community. 55794

(2) "Adult day habilitation services" includes all of the 55795
following: 55796

(a) Personal care services needed to ensure an individual's 55797
ability to experience and participate in vocational services, 55798
educational services, community activities, and any other adult 55799
day habilitation services; 55800

(b) Skilled services provided while receiving adult day 55801
habilitation services, including such skilled services as behavior 55802
management intervention, occupational therapy, speech and language 55803
therapy, physical therapy, and nursing services; 55804

(c) Training and education in self-determination designed to 55805
help the individual do one or more of the following: develop 55806
self-advocacy skills, exercise the individual's civil rights, 55807
acquire skills that enable the individual to exercise control and 55808
responsibility over the services received, and acquire skills that 55809
enable the individual to become more independent, integrated, or 55810
productive in the community; 55811

(d) Recreational and leisure activities identified in the 55812
individual's service plan as therapeutic in nature or assistive in 55813
developing or maintaining social supports; 55814

(e) Counseling and assistance provided to obtain housing, 55815
including such counseling as identifying options for either rental 55816
or purchase, identifying financial resources, assessing needs for 55817
environmental modifications, locating housing, and planning for 55818
ongoing management and maintenance of the housing selected; 55819

(f) Transportation necessary to access adult day habilitation 55820
services; 55821

(g) Habilitation management, as described in section 5126.14 55822
of the Revised Code. 55823

(3) "Adult day habilitation services" does not include 55824
activities that are components of the provision of residential 55825
services, family support services, or supported living services. 55826

(C) "Community employment services" or "supported employment 55827
services" means job training and other services related to 55828
employment outside a sheltered workshop. "Community employment 55829
services" or "supported employment services" include all of the 55830
following: 55831

(1) Job training resulting in the attainment of competitive 55832
work, supported work in a typical work environment, or 55833
self-employment; 55834

(2) Supervised work experience through an employer paid to 55835
provide the supervised work experience; 55836

(3) Ongoing work in a competitive work environment at a wage 55837
commensurate with workers without disabilities; 55838

(4) Ongoing supervision by an employer paid to provide the 55839
supervision. 55840

(D) As used in this division, "substantial functional 55841
limitation," "developmental delay," and "established risk" have 55842
the meanings established pursuant to section 5123.011 of the 55843
Revised Code. 55844

"Developmental disability" means a severe, chronic disability 55845
that is characterized by all of the following: 55846

(1) It is attributable to a mental or physical impairment or 55847
a combination of mental and physical impairments, other than a 55848
mental or physical impairment solely caused by mental illness as 55849
defined in division (A) of section 5122.01 of the Revised Code; 55850

(2) It is manifested before age twenty-two; 55851

(3) It is likely to continue indefinitely; 55852

- (4) It results in one of the following: 55853
- (a) In the case of a person under age three, at least one 55854
developmental delay or an established risk; 55855
- (b) In the case of a person at least age three but under age 55856
six, at least two developmental delays or an established risk; 55857
- (c) In the case of a person age six or older, a substantial 55858
functional limitation in at least three of the following areas of 55859
major life activity, as appropriate for the person's age: 55860
self-care, receptive and expressive language, learning, mobility, 55861
self-direction, capacity for independent living, and, if the 55862
person is at least age sixteen, capacity for economic 55863
self-sufficiency. 55864
- (5) It causes the person to need a combination and sequence 55865
of special, interdisciplinary, or other type of care, treatment, 55866
or provision of services for an extended period of time that is 55867
individually planned and coordinated for the person. 55868
- (E) "Early childhood services" means a planned program of 55869
habilitation designed to meet the needs of individuals with mental 55870
retardation or other developmental disabilities who have not 55871
attained compulsory school age. 55872
- (F)(1) "Environmental modifications" means the physical 55873
adaptations to an individual's home, specified in the individual's 55874
service plan, that are necessary to ensure the individual's 55875
health, safety, and welfare or that enable the individual to 55876
function with greater independence in the home, and without which 55877
the individual would require institutionalization. 55878
- (2) "Environmental modifications" includes such adaptations 55879
as installation of ramps and grab-bars, widening of doorways, 55880
modification of bathroom facilities, and installation of 55881
specialized electric and plumbing systems necessary to accommodate 55882

the individual's medical equipment and supplies. 55883

(3) "Environmental modifications" does not include physical 55884
adaptations or improvements to the home that are of general 55885
utility or not of direct medical or remedial benefit to the 55886
individual, including such adaptations or improvements as 55887
carpeting, roof repair, and central air conditioning. 55888

(G) "Family support services" means the services provided 55889
under a family support services program operated under section 55890
5126.11 of the Revised Code. 55891

(H) "Habilitation" means the process by which the staff of 55892
the facility or agency assists an individual with mental 55893
retardation or other developmental disability in acquiring and 55894
maintaining those life skills that enable the individual to cope 55895
more effectively with the demands of the individual's own person 55896
and environment, and in raising the level of the individual's 55897
personal, physical, mental, social, and vocational efficiency. 55898
Habilitation includes, but is not limited to, programs of formal, 55899
structured education and training. 55900

~~(I) "Habilitation center services" means services provided by 55901
a habilitation center certified by the department of mental 55902
retardation and developmental disabilities under section 5123.041 55903
of the Revised Code and covered by the medicaid program pursuant 55904
to rules adopted under section 5111.041 of the Revised Code. 55905~~

~~(J)~~ "Home and community-based services" means medicaid-funded 55906
home and community-based services specified in division (B)(1) of 55907
section 5111.87 of the Revised Code and provided under the 55908
medicaid waiver components the department of mental retardation 55909
and developmental disabilities administers pursuant to section 55910
5111.871 of the Revised Code. 55911

~~(K)~~(J) "Medicaid" has the same meaning as in section 5111.01 55912
of the Revised Code. 55913

~~(I)~~(K) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

~~(M)~~(L) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

~~(N)~~(M) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

~~(O)~~(N) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

~~(P)~~(O) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

~~(Q)~~(P)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following: 55945
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(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received. 55947
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(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living. 55958
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~~(R)~~(O) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations. 55961
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~~(S)~~(R)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following: 55969
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(a) Providing the support necessary to enable an individual 55975

to live in a residence of the individual's choice, with any number	55976
of individuals who are not disabled, or with not more than three	55977
individuals with mental retardation and developmental disabilities	55978
unless the individuals are related by blood or marriage;	55979
(b) Encouraging the individual's participation in the	55980
community;	55981
(c) Promoting the individual's rights and autonomy;	55982
(d) Assisting the individual in acquiring, retaining, and	55983
improving the skills and competence necessary to live successfully	55984
in the individual's residence.	55985
(2) "Supported living" includes the provision of all of the	55986
following:	55987
(a) Housing, food, clothing, habilitation, staff support,	55988
professional services, and any related support services necessary	55989
to ensure the health, safety, and welfare of the individual	55990
receiving the services;	55991
(b) A combination of life-long or extended-duration	55992
supervision, training, and other services essential to daily	55993
living, including assessment and evaluation and assistance with	55994
the cost of training materials, transportation, fees, and	55995
supplies;	55996
(c) Personal care services and homemaker services;	55997
(d) Household maintenance that does not include modifications	55998
to the physical structure of the residence;	55999
(e) Respite care services;	56000
(f) Program management, as described in section 5126.14 of	56001
the Revised Code.	56002
Sec. 5126.035. (A) As used in this section:	56003

(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.

(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.

(B) Each service contract that a county board of mental retardation and developmental disabilities enters into with a provider shall do ~~all~~ both of the following:

~~(1) Comply with rules adopted under division (E) of this section;~~

~~(2) If the provider is to provide home and community-based services, or medicaid case management services, ~~or habilitation center services,~~ comply with all applicable statewide medicaid requirements;~~

~~(3)~~(2) Include a general operating agreement component and an individual service needs addendum.

(C) The general operating agreement component shall include all of the following:

(1) The roles and responsibilities of the county board regarding services for individuals with mental retardation or other developmental disability who reside in the county the county board serves;

(2) The roles and responsibilities of the provider as specified in the individual service needs addendum;

(3) Procedures for the county board to monitor the provider's services;

(4) Procedures for the county board to evaluate the quality

of care and cost effectiveness of the provider's services;	56034
(5) Procedures for payment of eligible claims;	56035
(6) If the provider is to provide home and community-based services, <u>or</u> medicaid case management services, or habilitation center services , both of the following:	56036
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(a) Procedures for reimbursement that conform to the statewide reimbursement process and the county board's plan submitted under section 5126.054 of the Revised Code;	56039
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(b) Procedures that ensure that the county board pays the nonfederal share of the medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay.	56042
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(7) Procedures for the county board to perform service utilization reviews and the implementation of required corrective actions;	56046
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(8) Procedures for the provider to submit claims for payment for a service no later than three hundred thirty days after the date the service is provided;	56049
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(9) Procedures for rejecting claims for payment that are submitted after the time required by division (B)(9)(C)(8) of this section;	56052
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(10) Procedures for developing, modifying, and executing initial and subsequent service plans. The procedures shall provide for the provider's participation.	56055
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(11) Procedures for affording individuals due process protections;	56058
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(12) General staffing, training, and certification requirements that are consistent with state requirements and compensation arrangements that are necessary to attract, train, and retain competent personnel to deliver the services pursuant to	56060
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the individual service needs addendum; 56064

(13) Methods to be used to document services provided and 56065
procedures for submitting reports the county board requires; 56066

(14) Methods for authorizing and documenting within 56067
seventy-two hours changes to the individual service needs 56068
addendum. The methods shall allow for changes to be initially 56069
authorized verbally and subsequently in writing. 56070

(15) Procedures for modifying the individual service needs 56071
addendum in accordance with changes to the recipient's 56072
individualized service plan; 56073

(16) Procedures for terminating the individual service needs 56074
addendum within thirty days of a request made by the recipient; 56075

(17) A requirement that all parties to the contract accept 56076
the contract's terms and conditions; 56077

(18) A designated contact person and the method of contacting 56078
the designated person to respond to medical or behavioral problems 56079
and allegations of major unusual incidents or unusual incidents; 56080

(19) Procedures for ensuring the health and welfare of the 56081
recipient; 56082

(20) Procedures for ensuring fiscal accountability and the 56083
collection and reporting of programmatic data; 56084

(21) Procedures for implementing the mediation and 56085
arbitration process under section 5126.036 of the Revised Code; 56086

(22) Procedures for amending or terminating the contract, 56087
including as necessary to make the general operating agreement 56088
component consistent with any changes made to the individual 56089
service needs addendum; 56090

(23) Anything else allowable under federal and state law that 56091
the county board and provider agree to. 56092

(D) The individual service needs addendum shall be consistent 56093
with the general operating agreement component and include all of 56094
the following: 56095

(1) The name of the individual with mental retardation or 56096
other developmental disability who is to receive the services from 56097
the provider and any information about the recipient that the 56098
provider needs to be able to provide the services; 56099

(2) A clear and complete description of the services that the 56100
recipient is to receive as determined using statewide assessment 56101
tools; 56102

(3) A copy of the recipient's assessment and individualized 56103
service plan; 56104

(4) A clear and complete description of the provider's 56105
responsibilities to the recipient and county board in providing 56106
appropriate services in a coordinated manner with other providers 56107
and in a manner that contributes to and ensures the recipient's 56108
health, safety, and welfare. 56109

(E) ~~The director of mental retardation and developmental~~ 56110
~~disabilities shall adopt rules in accordance with Chapter 119. of~~ 56111
~~the Revised Code governing service contracts.~~ A service contract 56112
does not negate the requirement that a provider of home and 56113
community-based services, or medicaid case management services, ~~or~~ 56114
~~habilitation center services~~ have a medicaid provider agreement 56115
with the department of job and family services. 56116

Sec. 5126.042. (A) As used in this section, "emergency" means 56117
any situation that creates for an individual with mental 56118
retardation or developmental disabilities a risk of substantial 56119
self-harm or substantial harm to others if action is not taken 56120
within thirty days. An "emergency" may include one or more of the 56121
following situations: 56122

(1) Loss of present residence for any reason, including legal action;	56123 56124
(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;	56125 56126 56127 56128
(3) Abuse, neglect, or exploitation of the individual;	56129
(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;	56130 56131
(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.	56132 56133 56134
(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.	56135 56136 56137 56138 56139 56140 56141 56142 56143
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.	56144 56145 56146 56147
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	56148 56149 56150 56151 56152

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 56182
accordance with the assessment component, approved under section 56183
5123.046 of the Revised Code, of the county board's plan developed 56184
under section 5126.054 of the Revised Code: 56185

(1) For the purpose of obtaining additional federal medicaid 56186
funds for home and community-based services, and medicaid case 56187
management services, ~~and habilitation center services,~~ do both of 56188
the following: 56189

(a) Give an individual who is eligible for home and 56190
community-based services and meets both of the following 56191
requirements priority over any other individual on a waiting list 56192
established under division (C) of this section for home and 56193
community-based services that include supported living, 56194
residential services, or family support services: 56195

(i) Is twenty-two years of age or older; 56196

(ii) Receives supported living or family support services. 56197

(b) Give an individual who is eligible for home and 56198
community-based services and meets both of the following 56199
requirements priority over any other individual on a waiting list 56200
established under division (C) of this section for home and 56201
community-based services that include adult services: 56202

(i) Resides in the individual's own home or the home of the 56203
individual's family and will continue to reside in that home after 56204
enrollment in home and community-based services; 56205

(ii) Receives adult services from the county board. 56206

(2) As federal medicaid funds become available pursuant to 56207
division (D)(1) of this section, give an individual who is 56208
eligible for home and community-based services and meets any of 56209
the following requirements priority for such services over any 56210
other individual on a waiting list established under division (C) 56211

of this section: 56212

(a) Does not receive residential services or supported 56213
living, either needs services in the individual's current living 56214
arrangement or will need services in a new living arrangement, and 56215
has a primary caregiver who is sixty years of age or older; 56216

(b) Is less than twenty-two years of age and has at least one 56217
of the following service needs that are unusual in scope or 56218
intensity: 56219

(i) Severe behavior problems for which a behavior support 56220
plan is needed; 56221

(ii) An emotional disorder for which anti-psychotic 56222
medication is needed; 56223

(iii) A medical condition that leaves the individual 56224
dependent on life-support medical technology; 56225

(iv) A condition affecting multiple body systems for which a 56226
combination of specialized medical, psychological, educational, or 56227
habilitation services are needed; 56228

(v) A condition the county board determines to be comparable 56229
in severity to any condition described in division (D)(2)(b)(i) to 56230
(iv) of this section and places the individual at significant risk 56231
of institutionalization. 56232

(c) Is twenty-two years of age or older, does not receive 56233
residential services or supported living, and is determined by the 56234
county board to have intensive needs for home and community-based 56235
services on an in-home or out-of-home basis. 56236

(3) In fiscal years 2002 and 2003, give an individual who is 56237
eligible for home and community-based services, resides in an 56238
intermediate care facility for the mentally retarded or nursing 56239
facility, chooses to move to another setting with the help of home 56240
and community-based services, and has been determined by the 56241

department of mental retardation and developmental disabilities to 56242
be capable of residing in the other setting, priority over any 56243
other individual on a waiting list established under division (C) 56244
of this section for home and community-based services who does not 56245
meet these criteria. The department of mental retardation and 56246
developmental disabilities shall identify the individuals to 56247
receive priority under division (D)(3) of this section, assess the 56248
needs of the individuals, and notify the county boards that are to 56249
provide the individuals priority under division (D)(3) of this 56250
section of the individuals identified by the department and the 56251
individuals' assessed needs. 56252

(E) Except as provided in division (G) of this section and 56253
for a number of years and beginning on a date specified in rules 56254
adopted under division (K) of this section, a county board shall 56255
give an individual who is eligible for home and community-based 56256
services, resides in a nursing facility, and chooses to move to 56257
another setting with the help of home and community-based 56258
services, priority over any other individual on a waiting list 56259
established under division (C) of this section for home and 56260
community-based services who does not meet these criteria. 56261

(F) If two or more individuals on a waiting list established 56262
under division (C) of this section for home and community-based 56263
services have priority for the services pursuant to division 56264
(D)(1) or (2) or (E) of this section, a county board may use, 56265
until December 31, ~~2005~~ 2007, criteria specified in rules adopted 56266
under division (K)(2) of this section in determining the order in 56267
which the individuals with priority will be offered the services. 56268
Otherwise, the county board shall offer the home and 56269
community-based services to such individuals in the order they are 56270
placed on the waiting list. 56271

(G)(1) No individual may receive priority for services 56272
pursuant to division (D) or (E) of this section over an individual 56273

placed on a waiting list established under division (C) of this section on an emergency status. 56274
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(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. 56276
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(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. 56279
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(4) No more than forty individuals in the state may receive priority for services pursuant to division (E) of this section for each year that priority category is in effect as specified in rules adopted under division (K) of this section. 56282
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(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section. 56286
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Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed. 56290
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At least annually, the county board shall reassess the service needs of each individual on a waiting list. 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 56298
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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.

When a program or service for which there is a waiting list
becomes available, the county board shall reassess the service
needs of the individual next scheduled on the waiting list to
receive that program or service. If the reassessment demonstrates
that the individual continues to need the program or service, the
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 56337
with mental retardation and developmental disabilities and its 56338
proposals for reducing the waiting lists for services. 56339

(K)(1) The department of mental retardation and developmental 56340
disabilities shall adopt rules in accordance with Chapter 119. of 56341
the Revised Code governing waiting lists established under this 56342
section. The rules shall include procedures to be followed to 56343
ensure that the due process rights of individuals placed on 56344
waiting lists are not violated. 56345

(2) As part of the rules adopted under this division, the 56346
department shall adopt rules establishing criteria a county board 56347
may use under division (F) of this section in determining the 56348
order in which individuals with priority for home and 56349
community-based services will be offered the services. The rules 56350
shall also specify conditions under which a county board, when 56351
there is no individual with priority for home and community-based 56352
services pursuant to division (D)(1) or (2) or (E) of this section 56353
available and appropriate for the services, may offer the services 56354
to an individual on a waiting list for the services but not given 56355
such priority for the services. The rules adopted under division 56356
(K)(2) of this section shall cease to have effect December 31, 56357
~~2005~~ 2007. 56358

(3) As part of the rules adopted under this division, the 56359
department shall adopt rules specifying both of the following for 56360
the priority category established under division (E) of this 56361
section: 56362

(a) The number of years, which shall not exceed five, that 56363
the priority category will be in effect; 56364

(b) The date that the priority category is to go into effect. 56365

(L) The following shall take precedence over the applicable 56366
provisions of this section: 56367

(1) Medicaid rules and regulations;	56368
(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.	56369 56370 56371 56372
Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following four components:	56373 56374 56375 56376
(1) An assessment component that includes all of the following:	56377 56378
(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, are given priority for the services pursuant to division (D) of section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;	56379 56380 56381 56382 56383 56384 56385
(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay;	56386 56387 56388 56389
(c) Any other applicable information or conditions that the department of mental retardation and developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.	56390 56391 56392 56393
(2) A component that provides for the recruitment, training, and retention of existing and new direct care staff necessary to implement services included in individualized service plans, including behavior management services and health management	56394 56395 56396 56397

services such as delegated nursing and other habilitation 56398
services, and protect the health and welfare of individuals 56399
receiving services included in the individual's individualized 56400
service plan by complying with safeguards for unusual and major 56401
unusual incidents, day-to-day program management, and other 56402
requirements the department shall identify. A county board shall 56403
develop this component in collaboration with providers of 56404
medicaid-funded services with which the county board contracts. A 56405
county board shall include all of the following in the component: 56406

(a) The source and amount of funds available for the 56407
component; 56408

(b) A plan and timeline for implementing the component with 56409
the medicaid providers under contract with the county board; 56410

(c) The mechanisms the county board shall use to ensure the 56411
financial and program accountability of the medicaid provider's 56412
implementation of the component. 56413

(3) A preliminary implementation component that specifies the 56414
number of individuals to be provided, during the first year that 56415
the plan is in effect, home and community-based services pursuant 56416
to the priority given to them under divisions (D)(1) and (2) of 56417
section 5126.042 of the Revised Code and the types of home and 56418
community-based services the individuals are to receive; 56419

(4) A component that provides for the implementation of 56420
~~habilitation center services,~~ medicaid case management services, 56421
and home and community-based services for individuals who begin to 56422
receive the services on or after the date the plan is approved 56423
under section 5123.046 of the Revised Code. A county board shall 56424
include all of the following in the component: 56425

(a) If the department of mental retardation and developmental 56426
disabilities or department of job and family services requires, an 56427
agreement to pay the nonfederal share of medicaid expenditures 56428

that the county board is required by division (A) of section 56429
5126.057 of the Revised Code to pay; 56430

(b) How the services are to be phased in over the period the 56431
plan covers, including how the county board will serve individuals 56432
on a waiting list established under division (C) of section 56433
5126.042 who are given priority status under division (D)(1) of 56434
that section; 56435

(c) Any agreement or commitment regarding the county board's 56436
funding of home and community-based services that the county board 56437
has with the department at the time the county board develops the 56438
component; 56439

(d) Assurances adequate to the department that the county 56440
board will comply with all of the following requirements: 56441

(i) To provide the types of home and community-based services 56442
specified in the preliminary implementation component required by 56443
division (A)(3) of this section to at least the number of 56444
individuals specified in that component; 56445

(ii) To use any additional funds the county board receives 56446
for the services to improve the county board's resource 56447
capabilities for supporting such services available in the county 56448
at the time the component is developed and to expand the services 56449
to accommodate the unmet need for those services in the county; 56450

(iii) To employ a business manager who is either a new 56451
employee who has earned at least a bachelor's degree in business 56452
administration or a current employee who has the equivalent 56453
experience of a bachelor's degree in business administration. If 56454
the county board will employ a new employee, the county board 56455
shall include in the component a timeline for employing the 56456
employee. 56457

(iv) To employ or contract with a medicaid services manager 56458

who is either a new employee who has earned at least a bachelor's 56459
degree or a current employee who has the equivalent experience of 56460
a bachelor's degree. If the county board will employ a new 56461
employee, the county board shall include in the component a 56462
timeline for employing the employee. Two or three county boards 56463
that have a combined total enrollment in county board services not 56464
exceeding one thousand individuals as determined pursuant to 56465
certifications made under division (B) of section 5126.12 of the 56466
Revised Code may satisfy this requirement by sharing the services 56467
of a medicaid services manager or using the services of a medicaid 56468
services manager employed by or under contract with a regional 56469
council that the county boards establish under section 5126.13 of 56470
the Revised Code. 56471

(e) An agreement to comply with the method, developed by 56472
rules adopted under section 5123.0413 of the Revised Code, of 56473
paying for extraordinary costs, including extraordinary costs for 56474
services to individuals with mental retardation or other 56475
developmental disability, and ensuring the availability of 56476
adequate funds in the event a county property tax levy for 56477
services for individuals with mental retardation or other 56478
developmental disability fails; 56479

(f) Programmatic and financial accountability measures and 56480
projected outcomes expected from the implementation of the plan; 56481

(g) Any other applicable information or conditions that the 56482
department requires as a condition of approving the component 56483
under section 5123.046 of the Revised Code. 56484

(B) For the purpose of obtaining the department's approval 56485
under section 5123.046 of the Revised Code of the plan the county 56486
board develops under division (A) of this section, a county board 56487
shall do all of the following: 56488

(1) Submit the components required by divisions (A)(1) and 56489

(2) of this section to the department not later than August 1,
2001; 56490
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(2) Submit the component required by division (A)(3) of this
section to the department not later than January 31, 2002; 56492
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(3) Submit the component required by division (A)(4) of this
section to the department not later than July 1, 2002. 56494
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(C) A county board whose plan developed under division (A) of
this section is approved by the department under section 5123.046
of the Revised Code shall update and renew the plan in accordance
with a schedule the department shall develop. 56496
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Sec. 5126.055. (A) Except as provided in section 5126.056 of
the Revised Code, a county board of mental retardation and
developmental disabilities 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 home and community-based services: 56500
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(1) Perform assessments and evaluations of the individual. As
part of the assessment and evaluation process, the county board
shall do all of the following: 56507
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(a) Make a recommendation to the department of mental
retardation and developmental disabilities on whether the
department should approve or deny the individual's application for
the services, including on the basis of whether the individual
needs the level of care an intermediate care facility for the
mentally retarded provides; 56510
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(b) If the individual's application is denied because of the
county board's recommendation and the individual requests a
hearing under section 5101.35 of the Revised Code, present, with
the department of mental retardation and developmental 56516
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disabilities or department of job and family services, whichever 56520
denies the application, the reasons for the recommendation and 56521
denial at the hearing; 56522

(c) If the individual's application is approved, recommend to 56523
the departments of mental retardation and developmental 56524
disabilities and job and family services the services that should 56525
be included in the individual's individualized service plan and, 56526
if either department approves, reduces, denies, or terminates a 56527
service included in the individual's individualized service plan 56528
under section 5111.871 of the Revised Code because of the county 56529
board's recommendation, present, with the department that made the 56530
approval, reduction, denial, or termination, the reasons for the 56531
recommendation and approval, reduction, denial, or termination at 56532
a hearing under section 5101.35 of the Revised Code. 56533

(2) If the individual has been identified by the department 56534
of mental retardation and developmental disabilities as an 56535
individual to receive priority for home and community-based 56536
services pursuant to division (D)(3) of section 5126.042 of the 56537
Revised Code, assist the department in expediting the transfer of 56538
the individual from an intermediate care facility for the mentally 56539
retarded or nursing facility to the home and community-based 56540
services; 56541

(3) In accordance with the rules adopted under section 56542
5126.046 of the Revised Code, perform the county board's duties 56543
under that section regarding assisting the individual's right to 56544
choose a qualified and willing provider of the services and, at a 56545
hearing under section 5101.35 of the Revised Code, present 56546
evidence of the process for appropriate assistance in choosing 56547
providers; 56548

(4) Unless the county board provides the services under 56549
division (A)(5) of this section, contract with the person or 56550

government entity the individual chooses in accordance with 56551
section 5126.046 of the Revised Code to provide the services if 56552
the person or government entity is qualified and agrees to provide 56553
the services. The contract shall contain all the provisions 56554
required by section 5126.035 of the Revised Code and require the 56555
provider to agree to furnish, in accordance with the provider's 56556
medicaid provider agreement and for the authorized reimbursement 56557
rate, the services the individual requires. 56558

(5) If the county board is certified under section ~~5123.045~~ 56559
5123.16 of the Revised Code to provide the services and agrees to 56560
provide the services to the individual and the individual chooses 56561
the county board to provide the services, furnish, in accordance 56562
with the county board's medicaid provider agreement and for the 56563
authorized reimbursement rate, the services the individual 56564
requires; 56565

(6) Monitor the services provided to the individual and 56566
ensure the individual's health, safety, and welfare. The 56567
monitoring shall include quality assurance activities. If the 56568
county board provides the services, the department of mental 56569
retardation and developmental disabilities shall also monitor the 56570
services. 56571

(7) Develop, with the individual and the provider of the 56572
individual's services, an effective individualized service plan 56573
that includes coordination of services, recommend that the 56574
departments of mental retardation and developmental disabilities 56575
and job and family services approve the plan, and implement the 56576
plan unless either department disapproves it; 56577

(8) Have an investigative agent conduct investigations under 56578
section 5126.313 of the Revised Code that concern the individual; 56579

(9) Have a service and support administrator perform the 56580
duties under division (B)(9) of section 5126.15 of the Revised 56581

Code that concern the individual. 56582

~~(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:~~ 56583
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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;~~ 56592
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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;~~ 56597
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~~(3) In accordance with rules the departments of mental retardation and developmental disabilities and job and family~~ 56611
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~~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:~~

~~(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;~~

~~(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; 56644

~~(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.~~ 56645
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~~(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 services in accordance with the individual's approved individualized service plan;~~ 56650
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~~(8) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;~~ 56656
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~~(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.~~ 56658
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~~(C)~~ A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following: 56661
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(1) The county board's plan that the department of mental retardation and developmental disabilities approves under section 5123.046 of the Revised Code; 56664
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(2) All applicable federal and state laws; 56667

(3) All applicable policies of the departments of mental retardation and developmental disabilities and job and family services and the United States department of health and human services; 56668
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(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to 56672
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act as the single state medicaid agency; 56674

(5) The department of mental retardation and developmental 56675
disabilities' oversight. 56676

~~(D)~~(C) The departments of mental retardation and 56677
developmental disabilities and job and family services shall 56678
communicate with and provide training to county boards regarding 56679
medicaid local administrative authority granted by this section. 56680
The communication and training shall include issues regarding 56681
audit protocols and other standards established by the United 56682
States department of health and human services that the 56683
departments determine appropriate for communication and training. 56684
County boards shall participate in the training. The departments 56685
shall assess the county board's compliance against uniform 56686
standards that the departments shall establish. 56687

~~(E)~~(D) A county board may not delegate its medicaid local 56688
administrative authority granted under this section but may 56689
contract with a person or government entity, including a council 56690
of governments, for assistance with its medicaid local 56691
administrative authority. A county board that enters into such a 56692
contract shall notify the director of mental retardation and 56693
developmental disabilities. The notice shall include the tasks and 56694
responsibilities that the contract gives to the person or 56695
government entity. The person or government entity shall comply in 56696
full with all requirements to which the county board is subject 56697
regarding the person or government entity's tasks and 56698
responsibilities under the contract. The county board remains 56699
ultimately responsible for the tasks and responsibilities. 56700

~~(F)~~(E) A county board that has medicaid local administrative 56701
authority under this section shall, through the departments of 56702
mental retardation and developmental disabilities and job and 56703
family services, reply to, and cooperate in arranging compliance 56704

with, a program or fiscal audit or program violation exception 56705
that a state or federal audit or review discovers. The department 56706
of job and family services shall timely notify the department of 56707
mental retardation and developmental disabilities and the county 56708
board of any adverse findings. After receiving the notice, the 56709
county board, in conjunction with the department of mental 56710
retardation and developmental disabilities, shall cooperate fully 56711
with the department of job and family services and timely prepare 56712
and send to the department a written plan of correction or 56713
response to the adverse findings. The county board is liable for 56714
any adverse findings that result from an action it takes or fails 56715
to take in its implementation of medicaid local administrative 56716
authority. 56717

~~(G)~~(F) If the department of mental retardation and 56718
developmental disabilities or department of job and family 56719
services determines that a county board's implementation of its 56720
medicaid local administrative authority under this section is 56721
deficient, the department that makes the determination shall 56722
require that county board do the following: 56723

(1) If the deficiency affects the health, safety, or welfare 56724
of an individual with mental retardation or other developmental 56725
disability, correct the deficiency within twenty-four hours; 56726

(2) If the deficiency does not affect the health, safety, or 56727
welfare of an individual with mental retardation or other 56728
developmental disability, receive technical assistance from the 56729
department or submit a plan of correction to the department that 56730
is acceptable to the department within sixty days and correct the 56731
deficiency within the time required by the plan of correction. 56732

Sec. 5126.056. (A) The department of mental retardation and 56733
developmental disabilities shall take action under division (B) of 56734
this section against a county board of mental retardation and 56735

developmental disabilities if any of the following are the case: 56736

(1) The county board fails to submit to the department all 56737
the components of its three-year plan required by section 5126.054 56738
of the Revised Code within the time required by division (B) of 56739
that section. 56740

(2) The department disapproves the county board's three-year 56741
plan under section 5123.046 of the Revised Code. 56742

(3) The county board fails, as required by division (C) of 56743
section 5126.054 of the Revised Code, to update and renew its 56744
three-year plan in accordance with a schedule the department 56745
develops under that section. 56746

(4) The county board fails to implement its initial or 56747
renewed three-year plan approved by the department. 56748

(5) The county board fails to correct a deficiency within the 56749
time required by division ~~(G)~~(F) of section 5126.055 of the 56750
Revised Code to the satisfaction of the department. 56751

(6) The county board fails to submit an acceptable plan of 56752
correction to the department within the time required by division 56753
~~(G)~~(F)(2) of section 5126.055 of the Revised Code. 56754

(B) If required by division (A) of this section to take 56755
action against a county board, the department shall issue an order 56756
terminating the county board's medicaid local administrative 56757
authority over all or part of home and community-based services, 56758
medicaid case management services, ~~habilitation center services,~~ 56759
~~all or part of two of those services,~~ or all or part of ~~all three~~ 56760
both of those services. The department shall provide a copy of the 56761
order to the board of county commissioners, probate judge, county 56762
auditor, and president and superintendent of the county board. The 56763
department shall specify in the order the medicaid local 56764
administrative authority that the department is terminating, the 56765
reason for the termination, and the county board's option and 56766

responsibilities under this division. 56767

A county board whose medicaid local administrative authority 56768
is terminated may, not later than thirty days after the department 56769
issues the termination order, recommend to the department that 56770
another county board that has not had any of its medicaid local 56771
administrative authority terminated or another entity the 56772
department approves administer the services for which the county 56773
board's medicaid local administrative authority is terminated. The 56774
department may contract with the other county board or entity to 56775
administer the services. If the department enters into such a 56776
contract, the county board shall adopt a resolution giving the 56777
other county board or entity full medicaid local administrative 56778
authority over the services that the other county board or entity 56779
is to administer. The other county board or entity shall be known 56780
as the contracting authority. 56781

If the department rejects the county board's recommendation 56782
regarding a contracting authority, the county board may appeal the 56783
rejection under section 5123.043 of the Revised Code. 56784

If the county board does not submit a recommendation to the 56785
department regarding a contracting authority within the required 56786
time or the department rejects the county board's recommendation 56787
and the rejection is upheld pursuant to an appeal, if any, under 56788
section 5123.043 of the Revised Code, the department shall appoint 56789
an administrative receiver to administer the services for which 56790
the county board's medicaid local administrative authority is 56791
terminated. To the extent necessary for the department to appoint 56792
an administrative receiver, the department may utilize employees 56793
of the department, management personnel from another county board, 56794
or other individuals who are not employed by or affiliated with in 56795
any manner a person that provides home and community-based 56796
services, or medicaid case management services, ~~or habilitation~~ 56797
~~center services~~ pursuant to a contract with any county board. The 56798

administrative receiver shall assume full administrative 56799
responsibility for the county board's services for which the 56800
county board's medicaid local administrative authority is 56801
terminated. 56802

The contracting authority or administrative receiver shall 56803
develop and submit to the department a plan of correction to 56804
remediate the problems that caused the department to issue the 56805
termination order. If, after reviewing the plan, the department 56806
approves it, the contracting authority or administrative receiver 56807
shall implement the plan. 56808

The county board shall transfer control of state and federal 56809
funds it is otherwise eligible to receive for the services for 56810
which the county board's medicaid local administrative authority 56811
is terminated and funds the county board may use under division 56812
(B) of section 5126.057 of the Revised Code to pay the nonfederal 56813
share of the services that the county board is required by 56814
division (A) of that section to pay. The county board shall 56815
transfer control of the funds to the contracting authority or 56816
administrative receiver administering the services. The amount the 56817
county board shall transfer shall be the amount necessary for the 56818
contracting authority or administrative receiver to fulfill its 56819
duties in administering the services, including its duties to pay 56820
its personnel for time worked, travel, and related matters. If the 56821
county board fails to make the transfer, the department may 56822
withhold the state and federal funds from the county board and 56823
bring a mandamus action against the county board in the court of 56824
common pleas of the county served by the county board or in the 56825
Franklin county court of common pleas. The mandamus action may not 56826
require that the county board transfer any funds other than the 56827
funds the county board is required by division (B) of this section 56828
to transfer. 56829

The contracting authority or administrative receiver has the 56830

right to authorize the payment of bills in the same manner that 56831
the county board may authorize payment of bills under this chapter 56832
and section 319.16 of the Revised Code. 56833

Sec. 5126.057. (A) A county board of mental retardation and 56834
developmental disabilities that has medicaid local administrative 56835
authority under division (A) of section 5126.055 of the Revised 56836
Code for home and community-based services shall pay the 56837
nonfederal share of medicaid expenditures for such services 56838
provided to an individual with mental retardation or other 56839
developmental disability who the county board determines under 56840
section 5126.041 of the Revised Code is eligible for county board 56841
services unless division ~~(C)~~(B)(2) or (3) of section 5123.047 of 56842
the Revised Code requires the department of mental retardation and 56843
developmental disabilities to pay the nonfederal share. 56844

A county board that ~~has medicaid local administrative~~ 56845
~~authority under division (B) of section 5126.055 of the Revised~~ 56846
~~Code for~~ provides medicaid case management services shall pay the 56847
nonfederal share of medicaid expenditures for such services 56848
provided to an individual with mental retardation or other 56849
developmental disability who the county board determines under 56850
section 5126.041 of the Revised Code is eligible for county board 56851
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 56852
~~Code requires the department of mental retardation and~~ 56853
~~developmental disabilities to pay the nonfederal share.~~ 56854

~~A county board shall pay the nonfederal share of medicaid~~ 56855
~~expenditures for habilitation center services when required to do~~ 56856
~~so by division (D) of section 5111.041 of the Revised Code.~~ 56857

(B) A county board may use the following funds to pay the 56858
nonfederal share of the services that the county board is required 56859
by division (A) of this section to pay: 56860

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board to pay the nonfederal share of the services.

(2) Funds that the department of mental retardation and developmental disabilities distributes to the county board under sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the Revised Code;

~~(3) Funds that the department allocates to the county board for habilitation center services provided under section 5111.041 of the Revised Code;~~

~~(4) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement.~~

(C) If by December 31, 2001, the United States secretary of health and human services approves at least five hundred more slots for home and community-based services for calendar year 2002 than were available for calendar year 2001, each county board shall provide, by the last day of calendar year 2001, assurances to the department of mental retardation and developmental disabilities that the county board will have for calendar year 2002 at least one-third of the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

If by December 31, 2002, the United States secretary approves at least five hundred more slots for home and community-based

services for calendar year 2003 than were available for calendar 56891
year 2002, each county board shall provide, by the last day of 56892
calendar year 2002, assurances to the department that the county 56893
board will have for calendar year 2003 at least two-thirds of the 56894
value of one-half, effective mill levied in the county the 56895
preceding year available to pay the nonfederal share of the 56896
services that the county board is required by division (A) of this 56897
section to pay. 56898

If by December 31, 2003, the United States secretary approves 56899
at least five hundred more slots for home and community-based 56900
services for calendar year 2004 than were available for calendar 56901
year 2003, each county board shall provide, by the last day of 56902
calendar year 2003 and each calendar year thereafter, assurances 56903
to the department that the county board will have for calendar 56904
year 2004 and each calendar year thereafter at least the value of 56905
one-half, effective mill levied in the county the preceding year 56906
available to pay the nonfederal share of the services that the 56907
county board is required by division (A) of this section to pay. 56908

(D) Each year, each county board shall adopt a resolution 56909
specifying the amount of funds it will use in the next year to pay 56910
the nonfederal share of the services that the county board is 56911
required by division (A) of this section to pay. The amount 56912
specified shall be adequate to assure that the services will be 56913
available in the county in a manner that conforms to all 56914
applicable state and federal laws. A county board shall state in 56915
its resolution that the payment of the nonfederal share represents 56916
an ongoing financial commitment of the county board. A county 56917
board shall adopt the resolution in time for the county auditor to 56918
make the determination required by division (E) of this section. 56919

(E) Each year, a county auditor shall determine whether the 56920
amount of funds a county board specifies in the resolution it 56921
adopts under division (D) of this section will be available in the 56922

following year for the county board to pay the nonfederal share of 56923
the services that the county board is required by division (A) of 56924
this section to pay. The county auditor shall make the 56925
determination not later than the last day of the year before the 56926
year in which the funds are to be used. 56927

Sec. 5126.12. (A) As used in this section: 56928

(1) "Approved school age class" means a class operated by a 56929
county board of mental retardation and developmental disabilities 56930
and funded by the department of education under section 3317.20 of 56931
the Revised Code. 56932

(2) "Approved preschool unit" means a class or unit operated 56933
by a county board of mental retardation and developmental 56934
disabilities and approved under division (B) of section 3317.05 of 56935
the Revised Code. 56936

(3) "Active treatment" means a continuous treatment program, 56937
which includes aggressive, consistent implementation of a program 56938
of specialized and generic training, treatment, health services, 56939
and related services, that is directed toward the acquisition of 56940
behaviors necessary for an individual with mental retardation or 56941
other developmental disability to function with as much 56942
self-determination and independence as possible and toward the 56943
prevention of deceleration, regression, or loss of current optimal 56944
functional status. 56945

(4) "Eligible for active treatment" means that an individual 56946
with mental retardation or other developmental disability resides 56947
in an intermediate care facility for the mentally retarded 56948
certified under Title XIX of the "Social Security Act," 79 Stat. 56949
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 56950
institution operated by the department of mental retardation and 56951
developmental disabilities; or is enrolled in home and 56952

community-based services. 56953

(5) ~~"Community alternative funding system" means the program~~ 56954
~~under which habilitation center services are reimbursed under the~~ 56955
~~medicaid program pursuant to section 5111.041 of the Revised Code~~ 56956
~~and rules adopted under that section.~~ 56957

~~(6)~~ "Traditional adult services" means vocational and 56958
nonvocational activities conducted within a sheltered workshop or 56959
adult activity center or supportive home services. 56960

(B) Each county board of mental retardation and developmental 56961
disabilities shall certify to the director of mental retardation 56962
and developmental disabilities all of the following: 56963

(1) On or before the fifteenth day of October, the average 56964
daily membership for the first full week of programs and services 56965
during October receiving: 56966

(a) Early childhood services provided pursuant to section 56967
5126.05 of the Revised Code for children who are less than three 56968
years of age on the thirtieth day of September of the academic 56969
year; 56970

(b) Special education for handicapped children in approved 56971
school age classes; 56972

(c) Adult services for persons sixteen years of age and older 56973
operated pursuant to section 5126.05 and division (B) of section 56974
5126.051 of the Revised Code. Separate counts shall be made for 56975
the following: 56976

(i) Persons enrolled in traditional adult services who are 56977
eligible for but not enrolled in active treatment ~~under the~~ 56978
~~community alternative funding system;~~ 56979

(ii) Persons enrolled in traditional adult services who are 56980
eligible for and enrolled in active treatment ~~under the community~~ 56981
~~alternative funding system;~~ 56982

(iii) Persons enrolled in traditional adult services but who 56983
are not eligible for active treatment ~~under the community~~ 56984
~~alternative funding system;~~ 56985

(iv) Persons participating in community employment services. 56986
To be counted as participating in community employment services, a 56987
person must have spent an average of no less than ten hours per 56988
week in that employment during the preceding six months. 56989

(d) Other programs in the county for individuals with mental 56990
retardation and developmental disabilities that have been approved 56991
for payment of subsidy by the department of mental retardation and 56992
developmental disabilities. 56993

The membership in each such program and service in the county 56994
shall be reported on forms prescribed by the department of mental 56995
retardation and developmental disabilities. 56996

The department of mental retardation and developmental 56997
disabilities shall adopt rules defining full-time equivalent 56998
enrollees and for determining the average daily membership 56999
therefrom, except that certification of average daily membership 57000
in approved school age classes shall be in accordance with rules 57001
adopted by the state board of education. The average daily 57002
membership figure shall be determined by dividing the amount 57003
representing the sum of the number of enrollees in each program or 57004
service in the week for which the certification is made by the 57005
number of days the program or service was offered in that week. No 57006
enrollee may be counted in average daily membership for more than 57007
one program or service. 57008

(2) By the fifteenth day of December, the number of children 57009
enrolled in approved preschool units on the first day of December; 57010

(3) On or before the thirtieth day of March, an itemized 57011
report of all income and operating expenditures for the 57012
immediately preceding calendar year, in the format specified by 57013

the department of mental retardation and developmental 57014
disabilities; 57015

(4) By the fifteenth day of February, a report of the total 57016
annual cost per enrollee for operation of programs and services in 57017
the preceding calendar year. The report shall include a grand 57018
total of all programs operated, the cost of the individual 57019
programs, and the sources of funds applied to each program. 57020

(5) That each required certification and report is in 57021
accordance with rules established by the department of mental 57022
retardation and developmental disabilities and the state board of 57023
education for the operation and subsidization of the programs and 57024
services. 57025

(C) To compute payments under this section to the board for 57026
the fiscal year, the department of mental retardation and 57027
developmental disabilities shall use the certification of average 57028
daily membership required by division (B)(1) of this section 57029
exclusive of the average daily membership in any approved school 57030
age class and the number in any approved preschool unit. 57031

(D) The department shall pay each county board for each 57032
fiscal year an amount equal to nine hundred fifty dollars times 57033
the certified number of persons who on the first day of December 57034
of the academic year are under three years of age and are not in 57035
an approved preschool unit. For persons who are at least age 57036
sixteen and are not in an approved school age class, the 57037
department shall pay each county board for each fiscal year the 57038
following amounts: 57039

(1) One thousand dollars times the certified average daily 57040
membership of persons enrolled in traditional adult services who 57041
are eligible for but not enrolled in active treatment ~~under the~~ 57042
~~community alternative funding system;~~ 57043

(2) One thousand two hundred dollars times the certified 57044

average daily membership of persons enrolled in traditional adult 57045
services who are eligible for and enrolled in active treatment 57046
~~under the community alternative funding system;~~ 57047

(3) No less than one thousand five hundred dollars times the 57048
certified average daily membership of persons enrolled in 57049
traditional adult services but who are not eligible for active 57050
treatment ~~under the community alternative funding system;~~ 57051

(4) No less than one thousand five hundred dollars times the 57052
certified average daily membership of persons participating in 57053
community employment services. 57054

(E) The department shall distribute this subsidy to county 57055
boards in quarterly installments of equal amounts. The 57056
installments shall be made not later than the thirtieth day of 57057
September, the thirty-first day of December, the thirty-first day 57058
of March, and the thirtieth day of June. 57059

(F) The director of mental retardation and developmental 57060
disabilities shall make efforts to obtain increases in the 57061
subsidies for early childhood services and adult services so that 57062
the amount of the subsidies is equal to at least fifty per cent of 57063
the statewide average cost of those services minus any applicable 57064
federal reimbursements for those services. The director shall 57065
advise the director of budget and management of the need for any 57066
such increases when submitting the biennial appropriations request 57067
for the department. 57068

(G) In determining the reimbursement of a county board for 57069
the provision of service and support administration, family 57070
support services, and other services required or approved by the 57071
director for which children three through twenty-one years of age 57072
are eligible, the department shall include the average daily 57073
membership in approved school age or preschool units. The 57074
department, in accordance with this section and upon receipt and 57075

approval of the certification required by this section and any 57076
other information it requires to enable it to determine a board's 57077
payments, shall pay the agency providing the specialized training 57078
the amounts payable under this section. 57079

Sec. 5139.01. (A) As used in this chapter: 57080

(1) "Commitment" means the transfer of the physical custody 57081
of a child or youth from the court to the department of youth 57082
services. 57083

(2) "Permanent commitment" means a commitment that vests 57084
legal custody of a child in the department of youth services. 57085

(3) "Legal custody," insofar as it pertains to the status 57086
that is created when a child is permanently committed to the 57087
department of youth services, means a legal status in which the 57088
department has the following rights and responsibilities: the 57089
right to have physical possession of the child; the right and duty 57090
to train, protect, and control the child; the responsibility to 57091
provide the child with food, clothing, shelter, education, and 57092
medical care; and the right to determine where and with whom the 57093
child shall live, subject to the minimum periods of, or periods 57094
of, institutional care prescribed in sections 2152.13 to 2152.18 57095
of the Revised Code; provided, that these rights and 57096
responsibilities are exercised subject to the powers, rights, 57097
duties, and responsibilities of the guardian of the person of the 57098
child, and subject to any residual parental rights and 57099
responsibilities. 57100

(4) Unless the context requires a different meaning, 57101
"institution" means a state facility that is created by the 57102
general assembly and that is under the management and control of 57103
the department of youth services or a private entity with which 57104
the department has contracted for the institutional care and 57105

custody of felony delinquents. 57106

(5) "Full-time care" means care for twenty-four hours a day 57107
for over a period of at least two consecutive weeks. 57108

(6) "Placement" means the conditional release of a child 57109
under the terms and conditions that are specified by the 57110
department of youth services. The department shall retain legal 57111
custody of a child released pursuant to division (C) of section 57112
2152.22 of the Revised Code or division (C) of section 5139.06 of 57113
the Revised Code until the time that it discharges the child or 57114
until the legal custody is terminated as otherwise provided by 57115
law. 57116

(7) "Home placement" means the placement of a child in the 57117
home of the child's parent or parents or in the home of the 57118
guardian of the child's person. 57119

(8) "Discharge" means that the department of youth services' 57120
legal custody of a child is terminated. 57121

(9) "Release" means the termination of a child's stay in an 57122
institution and the subsequent period during which the child 57123
returns to the community under the terms and conditions of 57124
supervised release. 57125

(10) "Delinquent child" has the same meaning as in section 57126
2152.02 of the Revised Code. 57127

(11) "Felony delinquent" means any child who is at least ten 57128
years of age but less than eighteen years of age and who is 57129
adjudicated a delinquent child for having committed an act that if 57130
committed by an adult would be a felony. "Felony delinquent" 57131
includes any adult who is between the ages of eighteen and 57132
twenty-one and who is in the legal custody of the department of 57133
youth services for having committed an act that if committed by an 57134
adult would be a felony. 57135

(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 57136
57137

(13) "Public safety beds" means all of the following: 57138

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility; 57139
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(b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a misdemeanor or a felony; 57146
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(c) Children who satisfy all of the following: 57152

(i) They are at least ten years of age but less than eighteen years of age. 57153
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(ii) They are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony. 57155
57156

(iii) They are committed to the department of youth services by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged for the past four fiscal years. 57157
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(iv) They are in the care and custody of an institution or a community corrections facility. 57161
57162

(d) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution are serving disciplinary time for having committed an act 57163
57164
57165

described in division (A)~~(19)~~(18)(a), (b), or (c) of this section, 57166
and who have been institutionalized or institutionalized in a 57167
secure facility for the minimum period of time specified in 57168
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code. 57169

(e) Felony delinquents who are subject to and serving a 57170
three-year period of commitment order imposed by a juvenile court 57171
pursuant to divisions (A) and (B) of section 2152.17 of the 57172
Revised Code for an act, other than a violation of section 2911.11 57173
of the Revised Code, that would be a category one offense or 57174
category two offense if committed by an adult. 57175

(f) Felony delinquents who are described in divisions 57176
(A)(13)(a) to (e) of this section, who have been granted a 57177
judicial release to court supervision under division (B) of 57178
section 2152.22 of the Revised Code or a judicial release to the 57179
department of youth services supervision under division (C) of 57180
that section from the commitment to the department of youth 57181
services for the act described in divisions (A)(13)(a) to (e) of 57182
this section, who have violated the terms and conditions of that 57183
release, and who, pursuant to an order of the court of the county 57184
in which the particular felony delinquent was placed on release 57185
that is issued pursuant to division (D) of section 2152.22 of the 57186
Revised Code, have been returned to the department for 57187
institutionalization or institutionalization in a secure facility. 57188

(g) Felony delinquents who have been committed to the custody 57189
of the department of youth services, who have been granted 57190
supervised release from the commitment pursuant to section 5139.51 57191
of the Revised Code, who have violated the terms and conditions of 57192
that supervised release, and who, pursuant to an order of the 57193
court of the county in which the particular child was placed on 57194
supervised release issued pursuant to division (F) of section 57195
5139.52 of the Revised Code, have had the supervised release 57196
revoked and have been returned to the department for 57197

institutionalization. A felony delinquent described in this 57198
division shall be a public safety bed only for the time during 57199
which the felony delinquent is institutionalized as a result of 57200
the revocation subsequent to the initial thirty-day period of 57201
institutionalization required by division (F) of section 5139.52 57202
of the Revised Code. 57203

(14) Unless the context requires a different meaning, 57204
"community corrections facility" means a county or multicounty 57205
rehabilitation center for felony delinquents who have been 57206
committed to the department of youth services and diverted from 57207
care and custody in an institution and placed in the 57208
rehabilitation center pursuant to division (E) of section 5139.36 57209
of the Revised Code. 57210

(15) "Secure facility" means any facility that is designed 57211
and operated to ensure that all of its entrances and exits are 57212
under the exclusive control of its staff and to ensure that, 57213
because of that exclusive control, no child who has been 57214
institutionalized in the facility may leave the facility without 57215
permission or supervision. 57216

(16) "Community residential program" means a program that 57217
satisfies both of the following: 57218

(a) It is housed in a building or other structure that has no 57219
associated major restraining construction, including, but not 57220
limited to, a security fence. 57221

(b) It provides twenty-four-hour care, supervision, and 57222
programs for felony delinquents who are in residence. 57223

(17) "Category one offense" and "category two offense" have 57224
the same meanings as in section 2151.26 of the Revised Code. 57225

(18) "Disciplinary time" means additional time that the 57226
department of youth services requires a felony delinquent to serve 57227

in an institution, that delays the felony delinquent's planned 57228
release, and that the department imposes upon the felony 57229
delinquent following the conduct of an internal due process 57230
hearing for having committed any of the following acts while 57231
committed to the department and in the care and custody of an 57232
institution: 57233

(a) An act that if committed by an adult would be a felony; 57234

(b) An act that if committed by an adult would be a 57235
misdemeanor; 57236

(c) An act that is not described in division (A)(18)(a) or 57237
(b) of this section and that violates an institutional rule of 57238
conduct of the department. 57239

(19) "Unruly child" has the same meaning as in section 57240
2151.022 of the Revised Code. 57241

(20) "Revocation" means the act of revoking a child's 57242
supervised release for a violation of a term or condition of the 57243
child's supervised release in accordance with section 5139.52 of 57244
the Revised Code. 57245

(21) "Release authority" means the release authority of the 57246
department of youth services that is established by section 57247
5139.50 of the Revised Code. 57248

(22) "Supervised release" means the event of the release of a 57249
child under this chapter from an institution and the period after 57250
that release during which the child is supervised and assisted by 57251
an employee of the department of youth services under specific 57252
terms and conditions for reintegration of the child into the 57253
community. 57254

(23) "Victim" means the person identified in a police report, 57255
complaint, or information as the victim of an act that would have 57256
been a criminal offense if committed by an adult and that provided 57257

the basis for adjudication proceedings resulting in a child's 57258
commitment to the legal custody of the department of youth 57259
services. 57260

(24) "Victim's representative" means a member of the victim's 57261
family or another person whom the victim or another authorized 57262
person designates in writing, pursuant to section 5139.56 of the 57263
Revised Code, to represent the victim with respect to proceedings 57264
of the release authority of the department of youth services and 57265
with respect to other matters specified in that section. 57266

(25) "Member of the victim's family" means a spouse, child, 57267
stepchild, sibling, parent, stepparent, grandparent, other 57268
relative, or legal guardian of a child but does not include a 57269
person charged with, convicted of, or adjudicated a delinquent 57270
child for committing a criminal or delinquent act against the 57271
victim or another criminal or delinquent act arising out of the 57272
same conduct, criminal or delinquent episode, or plan as the 57273
criminal or delinquent act committed against the victim. 57274

(26) "Judicial release to court supervision" means a release 57275
of a child from institutional care or institutional care in a 57276
secure facility that is granted by a court pursuant to division 57277
(B) of section 2152.22 of the Revised Code during the period 57278
specified in that division. 57279

(27) "Judicial release to department of youth services 57280
supervision" means a release of a child from institutional care or 57281
institutional care in a secure facility that is granted by a court 57282
pursuant to division (C) of section 2152.22 of the Revised Code 57283
during the period specified in that division. 57284

(28) "Juvenile justice system" includes all of the functions 57285
of the juvenile courts, the department of youth services, any 57286
public or private agency whose purposes include the prevention of 57287
delinquency or the diversion, adjudication, detention, or 57288

rehabilitation of delinquent children, and any of the functions of 57289
the criminal justice system that are applicable to children. 57290

(29) "Metropolitan county criminal justice services agency" 57291
means an agency that is established pursuant to division (A) of 57292
section ~~181.54~~ 5502.64 of the Revised Code. 57293

(30) "Administrative planning district" means a district that 57294
is established pursuant to division (A) or (B) of section ~~181.56~~ 57295
5502.66 of the Revised Code. 57296

(31) "Criminal justice coordinating council" means a criminal 57297
justice services agency that is established pursuant to division 57298
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 57299

(32) "Comprehensive plan" means a document that coordinates, 57300
evaluates, and otherwise assists, on an annual or multi-year 57301
basis, all of the functions of the juvenile justice systems of the 57302
state or a specified area of the state, that conforms to the 57303
priorities of the state with respect to juvenile justice systems, 57304
and that conforms with the requirements of all federal criminal 57305
justice acts. These functions include, but are not limited to, all 57306
of the following: 57307

(a) Delinquency; 57308

(b) Identification, detection, apprehension, and detention of 57309
persons charged with delinquent acts; 57310

(c) Assistance to crime victims or witnesses, except that the 57311
comprehensive plan does not include the functions of the attorney 57312
general pursuant to sections 109.91 and 109.92 of the Revised 57313
Code; 57314

(d) Adjudication or diversion of persons charged with 57315
delinquent acts; 57316

(e) Custodial treatment of delinquent children; 57317

(f) Institutional and noninstitutional rehabilitation of 57318

delinquent children. 57319

(B) There is hereby created the department of youth services. 57320
The governor shall appoint the director of the department with the 57321
advice and consent of the senate. The director shall hold office 57322
during the term of the appointing governor but subject to removal 57323
at the pleasure of the governor. Except as otherwise authorized in 57324
section 108.05 of the Revised Code, the director shall devote the 57325
director's entire time to the duties of the director's office and 57326
shall hold no other office or position of trust or profit during 57327
the director's term of office. 57328

The director is the chief executive and administrative 57329
officer of the department and has all the powers of a department 57330
head set forth in Chapter 121. of the Revised Code. The director 57331
may adopt rules for the government of the department, the conduct 57332
of its officers and employees, the performance of its business, 57333
and the custody, use, and preservation of the department's 57334
records, papers, books, documents, and property. The director 57335
shall be an appointing authority within the meaning of Chapter 57336
124. of the Revised Code. Whenever this or any other chapter or 57337
section of the Revised Code imposes a duty on or requires an 57338
action of the department, the duty or action shall be performed by 57339
the director or, upon the director's order, in the name of the 57340
department. 57341

Sec. 5139.36. (A) In accordance with this section and the 57342
rules adopted under it and from funds appropriated to the 57343
department of youth services for the purposes of this section, the 57344
department shall make grants that provide financial resources to 57345
operate community corrections facilities for felony delinquents. 57346

(B)(1) Each community corrections facility that intends to 57347
seek a grant under this section shall file an application with the 57348
department of youth services at the time and in accordance with 57349

the procedures that the department shall establish by rules 57350
adopted in accordance with Chapter 119. of the Revised Code. In 57351
addition to other items required to be included in the 57352
application, a plan that satisfies both of the following shall be 57353
included: 57354

(a) It reduces the number of felony delinquents committed to 57355
the department from the county or counties associated with the 57356
community corrections facility. 57357

(b) It ensures equal access for minority felony delinquents 57358
to the programs and services for which a potential grant would be 57359
used. 57360

(2) The department of youth services shall review each 57361
application submitted pursuant to division (B)(1) of this section 57362
to determine whether the plan described in that division, the 57363
community corrections facility, and the application comply with 57364
this section and the rules adopted under it. 57365

(C) To be eligible for a grant under this section and for 57366
continued receipt of moneys comprising a grant under this section, 57367
a community corrections facility shall satisfy at least all of the 57368
following requirements: 57369

(1) Be constructed, reconstructed, improved, or financed by 57370
the Ohio building authority pursuant to section 307.021 of the 57371
Revised Code and Chapter 152. of the Revised Code for the use of 57372
the department of youth services and be designated as a community 57373
corrections facility; 57374

(2) Have written standardized criteria governing the types of 57375
felony delinquents that are eligible for the programs and services 57376
provided by the facility; 57377

(3) Have a written standardized intake screening process and 57378
an intake committee that at least performs both of the following 57379

tasks: 57380

(a) Screens all eligible felony delinquents who are being 57381
considered for admission to the facility in lieu of commitment to 57382
the department; 57383

(b) Notifies, within ten days after the date of the referral 57384
of a felony delinquent to the facility, the committing court 57385
whether the felony delinquent will be admitted to the facility. 57386

(4) Comply with all applicable fiscal and program rules that 57387
the department adopts in accordance with Chapter 119. of the 57388
Revised Code and demonstrate that felony delinquents served by the 57389
facility have been or will be diverted from a commitment to the 57390
department. 57391

(D) The department of youth services shall determine the 57392
method of distribution of the funds appropriated for grants under 57393
this section to community corrections facilities. 57394

(E)(1) The department of youth services shall adopt rules in 57395
accordance with Chapter 119. of the Revised Code to establish the 57396
minimum occupancy threshold of community corrections facilities. 57397

(2) The department may make referrals for the placement of 57398
children in its custody to a community corrections facility ~~if the~~ 57399
~~community corrections facility is not meeting the minimum~~ 57400
~~occupancy threshold established by the department.~~ At least 57401
forty-five days prior to the referral of a child or within any 57402
shorter period prior to the referral of the child that the 57403
committing court may allow, the department shall notify the 57404
committing court of its intent to place the child in a community 57405
corrections facility. The court shall have thirty days after the 57406
receipt of the notice to approve or disapprove the placement. If 57407
the court does not respond to the notice of the placement within 57408
that thirty-day period, the department shall proceed with the 57409
placement and debit the county in accordance with sections 5139.41 57410

to 5139.43 of the Revised Code. A child placed in a community 57411
corrections facility pursuant to this division shall remain in the 57412
legal custody of the department of youth services during the 57413
period in which the child is in the community corrections 57414
facility. 57415

(3) Counties that are not associated with a community 57416
corrections facility may refer children to a community corrections 57417
facility with the consent of the facility. The department of youth 57418
services shall debit the county that makes the referral in 57419
accordance with sections 5139.41 to 5139.43 of the Revised Code. 57420

(F) If the board or other governing body of a community 57421
corrections facility establishes an advisory board, the board or 57422
other governing authority of the community corrections facility 57423
shall reimburse the members of the advisory board for their actual 57424
and necessary expenses incurred in the performance of their 57425
official duties on the advisory board. The members of advisory 57426
boards shall serve without compensation. 57427

Sec. 5153.16. (A) Except as provided in section 2151.422 of 57428
the Revised Code, in accordance with rules of the department of 57429
job and family services, and on behalf of children in the county 57430
whom the public children services agency considers to be in need 57431
of public care or protective services, the public children 57432
services agency shall do all of the following: 57433

(1) Make an investigation concerning any child alleged to be 57434
an abused, neglected, or dependent child; 57435

(2) Enter into agreements with the parent, guardian, or other 57436
person having legal custody of any child, or with the department 57437
of job and family services, department of mental health, 57438
department of mental retardation and developmental disabilities, 57439
other department, any certified organization within or outside the 57440
county, or any agency or institution outside the state, having 57441

legal custody of any child, with respect to the custody, care, or 57442
placement of any child, or with respect to any matter, in the 57443
interests of the child, provided the permanent custody of a child 57444
shall not be transferred by a parent to the public children 57445
services agency without the consent of the juvenile court; 57446

(3) Accept custody of children committed to the public 57447
children services agency by a court exercising juvenile 57448
jurisdiction; 57449

(4) Provide such care as the public children services agency 57450
considers to be in the best interests of any child adjudicated to 57451
be an abused, neglected, or dependent child the agency finds to be 57452
in need of public care or service; 57453

(5) Provide social services to any unmarried girl adjudicated 57454
to be an abused, neglected, or dependent child who is pregnant 57455
with or has been delivered of a child; 57456

(6) Make available to the bureau for children with medical 57457
handicaps of the department of health at its request any 57458
information concerning a crippled child found to be in need of 57459
treatment under sections 3701.021 to 3701.028 of the Revised Code 57460
who is receiving services from the public children services 57461
agency; 57462

(7) Provide temporary emergency care for any child considered 57463
by the public children services agency to be in need of such care, 57464
without agreement or commitment; 57465

(8) Find certified foster homes, within or outside the 57466
county, for the care of children, including handicapped children 57467
from other counties attending special schools in the county; 57468

(9) Subject to the approval of the board of county 57469
commissioners and the state department of job and family services, 57470
establish and operate a training school or enter into an agreement 57471

with any municipal corporation or other political subdivision of 57472
the county respecting the operation, acquisition, or maintenance 57473
of any children's home, training school, or other institution for 57474
the care of children maintained by such municipal corporation or 57475
political subdivision; 57476

(10) Acquire and operate a county children's home, establish, 57477
maintain, and operate a receiving home for the temporary care of 57478
children, or procure certified foster homes for this purpose; 57479

(11) Enter into an agreement with the trustees of any 57480
district children's home, respecting the operation of the district 57481
children's home in cooperation with the other county boards in the 57482
district; 57483

(12) Cooperate with, make its services available to, and act 57484
as the agent of persons, courts, the department of job and family 57485
services, the department of health, and other organizations within 57486
and outside the state, in matters relating to the welfare of 57487
children, except that the public children services agency shall 57488
not be required to provide supervision of or other services 57489
related to the exercise of parenting time rights granted pursuant 57490
to section 3109.051 or 3109.12 of the Revised Code or 57491
companionship or visitation rights granted pursuant to section 57492
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 57493
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 57494
a common pleas court, pursuant to division (E)(6) of section 57495
3113.31 of the Revised Code, requires the provision of supervision 57496
or other services related to the exercise of the parenting time 57497
rights or companionship or visitation rights; 57498

(13) Make investigations at the request of any superintendent 57499
of schools in the county or the principal of any school concerning 57500
the application of any child adjudicated to be an abused, 57501
neglected, or dependent child for release from school, where such 57502

service is not provided through a school attendance department; 57503

(14) Administer funds provided under Title IV-E of the 57504
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 57505
amended, in accordance with rules adopted under section 5101.141 57506
of the Revised Code; 57507

(15) In addition to administering Title IV-E adoption 57508
assistance funds, enter into agreements to make adoption 57509
assistance payments under section 5153.163 of the Revised Code; 57510

(16) Implement a system of risk assessment, in accordance 57511
with rules adopted by the director of job and family services, to 57512
assist the public children services agency in determining the risk 57513
of abuse or neglect to a child; 57514

(17) Enter into a plan of cooperation with the board of 57515
county commissioners under section 307.983 of the Revised Code and 57516
comply with each fiscal agreement the board enters into under 57517
section 307.98 of the Revised Code that include family services 57518
duties of public children services agencies and contracts the 57519
board enters into under sections 307.981 and 307.982 of the 57520
Revised Code that affect the public children services agency; 57521

(18) Make reasonable efforts to prevent the removal of an 57522
alleged or adjudicated abused, neglected, or dependent child from 57523
the child's home, eliminate the continued removal of the child 57524
from the child's home, or make it possible for the child to return 57525
home safely, except that reasonable efforts of that nature are not 57526
required when a court has made a determination under division 57527
(A)(2) of section 2151.419 of the Revised Code; 57528

(19) Make reasonable efforts to place the child in a timely 57529
manner in accordance with the permanency plan approved under 57530
division (E) of section 2151.417 of the Revised Code and to 57531
complete whatever steps are necessary to finalize the permanent 57532
placement of the child; 57533

(20) Administer a Title IV-A program identified under 57534
division (A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised 57535
Code that the department of job and family services provides for 57536
the public children services agency to administer under the 57537
department's supervision pursuant to section 5101.801 of the 57538
Revised Code; 57539

(21) Administer the kinship permanency incentive program 57540
created under section 5101.802 of the Revised Code under the 57541
supervision of the director of job and family services; 57542

(22) Provide independent living services pursuant to sections 57543
2151.81 to 2151.84 of the Revised Code. 57544

(B) The public children services agency shall use the system 57545
implemented pursuant to division (B)(16) of this section in 57546
connection with an investigation undertaken pursuant to division 57547
(F)(1) of section 2151.421 of the Revised Code and may use the 57548
system at any other time the agency is involved with any child 57549
when the agency determines that risk assessment is necessary. 57550

(C) Except as provided in section 2151.422 of the Revised 57551
Code, in accordance with rules of the director of job and family 57552
services, and on behalf of children in the county whom the public 57553
children services agency considers to be in need of public care or 57554
protective services, the public children services agency may do 57555
the following: 57556

(1) Provide or find, with other child serving systems, 57557
specialized foster care for the care of children in a specialized 57558
foster home, as defined in section 5103.02 of the Revised Code, 57559
certified under section 5103.03 of the Revised Code; 57560

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 57561
this section, contract with the following for the purpose of 57562
assisting the agency with its duties: 57563

(i) County departments of job and family services;	57564
(ii) Boards of alcohol, drug addiction, and mental health services;	57565 57566
(iii) County boards of mental retardation and developmental disabilities;	57567 57568
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;	57569 57570
(v) Private and government providers of services;	57571
(vi) Managed care organizations and prepaid health plans.	57572
(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.	57573 57574 57575 57576 57577
(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.	57578 57579 57580 57581 57582 57583 57584 57585
Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.	57586 57587 57588 57589
The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of	57590 57591 57592

promoting safety in the operation of motor vehicles on the 57593
highways, and conduct research and studies for the purpose of 57594
promoting safety on the highways of this state. 57595

(B) The department shall administer the laws and rules 57596
relative to trauma and emergency medical services specified in 57597
Chapter 4765. of the Revised Code. 57598

(C) The department shall administer and enforce the laws 57599
contained in Chapters 4301. and 4303. of the Revised Code and 57600
enforce the rules and orders of the liquor control commission 57601
pertaining to retail liquor permit holders. 57602

(D) The department shall administer the laws governing the 57603
state emergency management agency and shall enforce all additional 57604
duties and responsibilities as prescribed in the Revised Code 57605
related to emergency management services. 57606

(E) The department shall conduct investigations pursuant to 57607
Chapter 5101. of the Revised Code in support of the duty of the 57608
department of job and family services to administer food stamp 57609
programs throughout this state. The department of public safety 57610
shall conduct investigations necessary to protect the state's 57611
property rights and interests in the food stamp program. 57612

(F) The department of public safety shall enforce compliance 57613
with orders and rules of the public utilities commission and 57614
applicable laws in accordance with Chapters 4919., 4921., and 57615
4923. of the Revised Code regarding commercial motor vehicle 57616
transportation safety, economic, and hazardous materials 57617
requirements. 57618

(G) Notwithstanding Chapter 4117. of the Revised Code, the 57619
department of public safety may establish requirements for its 57620
enforcement personnel, including its enforcement agents described 57621
in section 5502.14 of the Revised Code, that include standards of 57622
conduct, work rules and procedures, and criteria for eligibility 57623

as law enforcement personnel. 57624

(H) The department shall administer, maintain, and operate 57625
the Ohio criminal justice network. The Ohio criminal justice 57626
network shall be a computer network that supports state and local 57627
criminal justice activities. The network shall be an electronic 57628
repository for various data, which may include arrest warrants, 57629
notices of persons wanted by law enforcement agencies, criminal 57630
records, prison inmate records, stolen vehicle records, vehicle 57631
operator's licenses, and vehicle registrations and titles. 57632

(I) The department shall coordinate all homeland security 57633
activities of all state agencies and shall be a liaison between 57634
state agencies and local entities for those activities and related 57635
purposes. 57636

(J) Beginning July 1, 2004, the department shall administer 57637
and enforce the laws relative to private investigators and 57638
security service providers specified in Chapter 4749. of the 57639
Revised Code. 57640

(K) The department shall administer criminal justice services 57641
in accordance with sections 5502.61 to 5502.66 of the Revised 57642
Code. 57643

Sec. ~~181.51~~ 5502.61. As used in sections ~~181.51~~ 5502.61 to 57644
~~181.56~~ 5502.66 of the Revised Code: 57645

(A) "Federal criminal justice acts" means any federal law 57646
that authorizes financial assistance and other forms of assistance 57647
to be given by the federal government to the states to be used for 57648
the improvement of the criminal and juvenile justice systems of 57649
the states. 57650

(B)(1) "Criminal justice system" includes all of the 57651
functions of the following: 57652

(a) The state highway patrol, county sheriff offices, 57653

municipal and township police departments, and all other law enforcement agencies; 57654
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(b) The courts of appeals, courts of common pleas, municipal courts, county courts, and mayor's courts, when dealing with criminal cases; 57656
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(c) The prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases and the county and joint county public defenders and other public defender agencies or offices; 57659
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(d) The department of rehabilitation and correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders; 57663
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(e) Any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders; 57667
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(f) Any public or private agency, the purposes of which include assistance to crime victims or witnesses. 57670
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(2) The inclusion of any public or private agency, the purposes of which include assistance to crime victims or witnesses, as part of the criminal justice system pursuant to division (B)(1) of this section does not limit, and shall not be construed as limiting, the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs. 57672
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(C) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of 57679
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the criminal justice system that are applicable to children. 57684

(D) "Comprehensive plan" means a document that coordinates, 57685
evaluates, and otherwise assists, on an annual or multi-year 57686
basis, any of the functions of the criminal and juvenile justice 57687
systems of the state or a specified area of the state, that 57688
conforms to the priorities of the state with respect to criminal 57689
and juvenile justice systems, and that conforms with the 57690
requirements of all federal criminal justice acts. These functions 57691
may include, but are not limited to, any of the following: 57692

(1) Crime and delinquency prevention; 57693

(2) Identification, detection, apprehension, and detention of 57694
persons charged with criminal offenses or delinquent acts; 57695

(3) Assistance to crime victims or witnesses, except that the 57696
comprehensive plan does not include the functions of the attorney 57697
general pursuant to sections 109.91 and 109.92 of the Revised 57698
Code; 57699

(4) Adjudication or diversion of persons charged with 57700
criminal offenses or delinquent acts; 57701

(5) Custodial treatment of criminal offenders, delinquent 57702
children, or both; 57703

(6) Institutional and noninstitutional rehabilitation of 57704
criminal offenders, delinquent children, or both. 57705

(E) "Metropolitan county criminal justice services agency" 57706
means an agency that is established pursuant to division (A) of 57707
section ~~181.54~~ 5502.64 of the Revised Code. 57708

(F) "Administrative planning district" means a district that 57709
is established pursuant to division (A) or (B) of section ~~181.56~~ 57710
5502.66 of the Revised Code. 57711

(G) "Criminal justice coordinating council" means a criminal 57712
justice services agency that is established pursuant to division 57713

(D) of section ~~181.56~~ 5502.66 of the Revised Code.

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(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.

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(I) "Juvenile justice coordinating council" means a juvenile justice services agency that is established pursuant to division (D) of section ~~181.56~~ 5502.66 of the Revised Code.

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Sec. ~~181.52~~ 5502.62. (A) There is hereby created ~~an office in~~ the department of public safety a division of criminal justice services. The ~~governor~~ director of public safety, with the concurrence of the governor, shall appoint a an executive director of the ~~office, and the director may appoint, within the office,~~ any professional and technical personnel and other employees that are necessary to enable the office to comply with sections ~~181.51 to 181.56~~ of the Revised Code division of criminal justice services. The executive director shall be the head of the division. The executive director shall serve at the pleasure of the director of public safety. To carry out the duties assigned under this section and to comply with sections 5502.63 to 5502.66 of the Revised Code, the executive director, subject to the direction and control of the director of public safety, may appoint and maintain any necessary staff and may enter into any necessary contracts and other agreements. The executive director and the assistant director of the office division, and all professional and technical personnel employed within the ~~office~~ division who are not public employees as defined in section 4117.01 of the Revised Code, shall be in the unclassified civil service, and all other persons employed within the ~~office~~ division

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shall be in the classified civil service. ~~The director may enter~~ 57745
~~into any contracts, except contracts governed by Chapter 4117. of~~ 57746
~~the Revised Code, that are necessary for the operation of the~~ 57747
~~office.~~ 57748

(B) Subject to division (E) of this section and subject to 57749
divisions (D) to (F) of section 5120.09 of the Revised Code 57750
insofar as those divisions relate to federal criminal justice acts 57751
that the governor requires the department of rehabilitation and 57752
correction to administer, the ~~office~~ division of criminal justice 57753
services shall do all of the following: 57754

(1) Serve as the state criminal justice services agency and 57755
perform criminal justice system planning in the state, including 57756
any planning that is required by any federal law; 57757

(2) Collect, analyze, and correlate information and data 57758
concerning the criminal justice system in the state; 57759

(3) Cooperate with and provide technical assistance to state 57760
departments, administrative planning districts, metropolitan 57761
county criminal justice services agencies, criminal justice 57762
coordinating councils, agencies, offices, and departments of the 57763
criminal justice system in the state, and other appropriate 57764
organizations and persons; 57765

(4) Encourage and assist agencies, offices, and departments 57766
of the criminal justice system in the state and other appropriate 57767
organizations and persons to solve problems that relate to the 57768
duties of the ~~office~~ division; 57769

(5) Administer within the state any federal criminal justice 57770
acts that the governor requires it to administer; 57771

(6) Administer funds received under the "Family Violence 57772
Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A. 57773
10401, as amended, with all powers necessary for the adequate 57774
administration of those funds, including the authority to 57775

establish a family violence prevention and services program. 57776

(7) Implement the state comprehensive plans; 57777

(8) Audit grant activities of agencies, offices, 57778
organizations, and persons that are financed in whole or in part 57779
by funds granted through the ~~office~~ division; 57780

(9) Monitor or evaluate the performance of criminal justice 57781
system projects and programs in the state that are financed in 57782
whole or in part by funds granted through the ~~office~~ division; 57783

(10) Apply for, allocate, disburse, and account for grants 57784
that are made available pursuant to federal criminal justice acts, 57785
or made available from other federal, state, or private sources, 57786
to improve the criminal justice system in the state. ~~All~~ Except as 57787
otherwise provided in this division, all money from such federal 57788
grants shall, if the terms under which the money is received 57789
require that the money be deposited into an interest-bearing fund 57790
or account, be deposited in the state treasury to the credit of 57791
the federal program purposes fund, which is hereby created. All 57792
investment earnings of the federal program purposes fund shall be 57793
credited to the fund. All money from such federal grants that 57794
require that the money be deposited into an interest-bearing fund 57795
or account, that are intended to provide funding to local criminal 57796
justice programs, and that require that investment earnings be 57797
distributed for program purposes shall be deposited in the state 57798
treasury to the credit of the federal justice programs fund, which 57799
is hereby created. All investment earnings of the federal justice 57800
programs fund shall be credited to the fund and distributed in 57801
accordance with the terms of the grant under which the money is 57802
received. 57803

(11) Contract with federal, state, and local agencies, 57804
foundations, corporations, businesses, and persons when necessary 57805
to carry out the duties of the ~~office~~ division; 57806

- (12) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state; 57807
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- (13) Advise the director of public safety, general assembly, and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile justice systems in the state; 57810
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- (14) Prepare and recommend legislation to the director of public safety, general assembly, and governor for the improvement of the criminal and juvenile justice systems in the state; 57814
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- (15) Assist, advise, and make any reports that are requested or required by the governor, director of public safety, attorney general, or general assembly; 57817
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- (16) ~~Adopt~~ Subject to the approval of the director of public safety, ~~adopt~~ rules pursuant to Chapter 119. of the Revised Code. 57820
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- (C) Upon the request of the director of public safety or governor, the ~~office~~ division of criminal justice services may do any of the following: 57822
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- (1) Collect, analyze, or correlate information and data concerning the juvenile justice system in the state; 57825
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- (2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in the state and other appropriate organizations and persons; 57827
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- (3) Encourage and assist agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the ~~office~~ division. 57833
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(D) Divisions (B) and (C) of this section do not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.

(E) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.

Sec. ~~181.251~~ 5502.63. The ~~office division~~ of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The ~~office division~~ shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

As used in this section, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act.

Sec. ~~181.54~~ 5502.64. (A) A county may enter into an agreement with the largest city within the county to establish a metropolitan county criminal justice services agency, if the population of the county exceeds five hundred thousand or the population of the city exceeds two hundred fifty thousand.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Accomplish criminal and juvenile justice systems planning within its services area;

(2) Collect, analyze, and correlate information and data

concerning the criminal and juvenile justice systems within its services area; 57866
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(3) Cooperate with and provide technical assistance to all criminal and juvenile justice agencies and systems and other appropriate organizations and persons within its services area; 57868
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(4) Encourage and assist agencies of the criminal and juvenile justice systems and other appropriate organizations and persons to solve problems that relate to its duties; 57871
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(5) Administer within its services area any federal criminal justice acts or juvenile justice acts that the ~~office~~ division of criminal justice services pursuant to section 5139.11 of the Revised Code or the department of youth services administers within the state; 57874
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(6) Implement the comprehensive plans for its services area; 57879

(7) Monitor or evaluate, within its services area, the performance of the criminal and juvenile justice systems projects and programs that are financed in whole or in part by funds granted through it; 57880
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(8) Apply for, allocate, and disburse grants that are made available pursuant to any federal criminal justice acts, or pursuant to any other federal, state, or private sources for the purpose of improving the criminal and juvenile justice systems; 57884
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(9) Contract with federal, state, and local agencies, foundations, corporations, and other businesses or persons to carry out the duties of the agency. 57888
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Sec. ~~181.55~~ 5502.65. (A)(1) When funds are available for criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the ~~office~~ division of criminal justice services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, 57891
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evaluating, and implementing comprehensive plans within their 57896
respective counties. The ~~office~~ division of criminal justice 57897
services shall provide funds to an agency only if it complies with 57898
the conditions of division (B) of this section. 57899

(2) When funds are available for juvenile justice purposes 57900
pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the 57901
department of youth services shall provide funds to metropolitan 57902
county criminal justice services agencies for the purpose of 57903
developing, coordinating, evaluating, and implementing 57904
comprehensive plans within their respective counties. The 57905
department shall provide funds to an agency only if it complies 57906
with the conditions of division (B) of this section. 57907

(B) A metropolitan county criminal justice services agency 57908
shall do all of the following: 57909

(1) Submit, in a form that is acceptable to the ~~office~~ 57910
division of criminal justice services or the department of youth 57911
services pursuant to section 5139.01 of the Revised Code, a 57912
comprehensive plan for the county; 57913

(2) Establish a metropolitan county criminal justice services 57914
supervisory board whose members shall include a majority of the 57915
local elected officials in the county and representatives from law 57916
enforcement agencies, courts, prosecuting authorities, public 57917
defender agencies, rehabilitation and correction agencies, 57918
community organizations, juvenile justice services agencies, 57919
professionals, and private citizens in the county, and that shall 57920
have the authority set forth in division (C) of this section; 57921

(3) Organize in the manner provided in sections 167.01 to 57922
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 57923
unless the board created pursuant to division (B)(2) of this 57924
section organizes pursuant to these sections. 57925

(C) A metropolitan county criminal justice services 57926

supervisory board shall do all of the following: 57927

(1) Exercise leadership in improving the quality of the 57928
criminal and juvenile justice systems in the county; 57929

(2) Review, approve, and maintain general oversight of the 57930
comprehensive plans for the county and the implementation of the 57931
plans; 57932

(3) Review and comment on the overall needs and 57933
accomplishments of the criminal and juvenile justice systems in 57934
the county; 57935

(4) Establish, as required to comply with this division, task 57936
forces, ad hoc committees, and other committees, whose members 57937
shall be appointed by the chairperson of the board; 57938

(5) Establish any rules that the board considers necessary 57939
and that are consistent with the federal criminal justice acts and 57940
section ~~181.52~~ 5502.62 of the Revised Code. 57941

Sec. ~~181.56~~ 5502.66. (A) In counties in which a metropolitan 57942
county criminal justice services agency does not exist, the ~~office~~ 57943
division of criminal justice services shall discharge the ~~office's~~ 57944
division's duties that the ~~governor~~ director of public safety 57945
requires it to administer by establishing administrative planning 57946
districts for criminal justice programs. An administrative 57947
planning district shall contain a group of contiguous counties in 57948
which no county has a metropolitan county criminal justice 57949
services agency. 57950

(B) In counties in which a metropolitan county criminal 57951
justice services agency does not exist, the department of youth 57952
services shall discharge pursuant to section 5139.11 of the 57953
Revised Code the department's duty by establishing administrative 57954
planning districts for juvenile justice programs. 57955

(C) All administrative planning districts shall contain a 57956

group of contiguous counties in which no county has a metropolitan
county criminal justice services agency. 57957
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(D) Any county or any combination of contiguous counties 57959
within an administrative planning district may form a criminal 57960
justice coordinating council or a juvenile justice coordinating 57961
council for its respective programs, if the county or the group of 57962
counties has a total population in excess of two hundred fifty 57963
thousand. The council shall comply with the conditions set forth 57964
in divisions (B) and (C) of section ~~181.55~~ 5502.65 of the Revised 57965
Code, and exercise within its jurisdiction the powers and duties 57966
set forth in division (B) of section ~~181.54~~ 5502.64 of the Revised 57967
Code. 57968

Sec. 5531.10. (A) As used in this chapter: 57969

(1) "Bond proceedings" means the resolution, order, trust 57970
agreement, indenture, lease, lease-purchase agreements, and other 57971
agreements, amendments and supplements to the foregoing, or any 57972
one or more or combination thereof, authorizing or providing for 57973
the terms and conditions applicable to, or providing for the 57974
security or liquidity of, obligations issued pursuant to this 57975
section, and the provisions contained in such obligations. 57976

(2) "Bond service charges" means principal, including 57977
mandatory sinking fund requirements for retirement of obligations, 57978
and interest, and redemption premium, if any, required to be paid 57979
by the state on obligations. 57980

(3) "Bond service fund" means the applicable fund and 57981
accounts therein created for and pledged to the payment of bond 57982
service charges, which may be, or may be part of, the state 57983
infrastructure bank revenue bond service fund created by division 57984
(R) of this section including all moneys and investments, and 57985
earnings from investments, credited and to be credited thereto. 57986

(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of the treasurer of state.

(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.

(6) "Pledged receipts" means moneys accruing to the state from the lease, lease-purchase, sale, or other disposition, or use, of qualified projects, and from the repayment, including interest, of loans made from proceeds received from the sale of obligations; accrued interest received from the sale of obligations; income from the investment of the special funds; any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges; and any amounts in the state infrastructure bank pledged to the payment of such charges. If the amounts in the state infrastructure bank are insufficient for the payment of such charges, "pledged receipts" also means moneys that are apportioned by the United States secretary of transportation under United States Code, Title XXIII, as amended, or any successor legislation, or under any other federal law relating to aid for highways, and that are to be received as a grant by the state, to the extent the state is not prohibited by state or federal law from using such moneys and the moneys are pledged to the payment of such bond service charges.

(7) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings, and the state infrastructure bank revenue bond service fund created by division (R) of this section to the extent provided in the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

(8) "State infrastructure project" means any public 58019
transportation project undertaken by the state, including, but not 58020
limited to, all components of any such project, as described in 58021
division (D) of section ~~5131.09~~ 5531.09 of the Revised Code. 58022

(9) "District obligations" means bonds, notes, or other 58023
evidence of obligation including interest coupons pertaining 58024
thereto, issued to finance a qualified project by a transportation 58025
improvement district created pursuant to section 5540.02 of the 58026
Revised Code, of which the principal, including mandatory sinking 58027
fund requirements for retirement of such obligations, and interest 58028
and redemption premium, if any, are payable by the department of 58029
transportation. 58030

(B) The issuing authority, after giving written notice to the 58031
director of budget and management and upon the certification by 58032
the director of transportation to the issuing authority of the 58033
amount of moneys or additional moneys needed either for state 58034
infrastructure projects or to provide financial assistance for any 58035
of the purposes for which the state infrastructure bank may be 58036
used under section 5531.09 of the Revised Code, or needed for 58037
capitalized interest, funding reserves, and paying costs and 58038
expenses incurred in connection with the issuance, carrying, 58039
securing, paying, redeeming, or retirement of the obligations or 58040
any obligations refunded thereby, including payment of costs and 58041
expenses relating to letters of credit, lines of credit, 58042
insurance, put agreements, standby purchase agreements, indexing, 58043
marketing, remarketing and administrative arrangements, interest 58044
swap or hedging agreements, and any other credit enhancement, 58045
liquidity, remarketing, renewal, or refunding arrangements, all of 58046
which are authorized by this section, shall issue obligations of 58047
the state under this section in the required amount. The proceeds 58048
of such obligations, except for the portion to be deposited in 58049
special funds, including reserve funds, as may be provided in the 58050

bond proceedings, shall as provided in the bond proceedings be 58051
credited to the infrastructure bank obligations fund of the state 58052
infrastructure bank created by section 5531.09 of the Revised 58053
Code. The issuing authority may appoint trustees, paying agents, 58054
transfer agents, and authenticating agents, and may retain the 58055
services of financial advisors, accounting experts, and attorneys, 58056
and retain or contract for the services of marketing, remarketing, 58057
indexing, and administrative agents, other consultants, and 58058
independent contractors, including printing services, as are 58059
necessary in the issuing authority's judgment to carry out this 58060
section. The costs of such services are payable from funds of the 58061
state infrastructure bank. 58062

(C) The holders or owners of such obligations shall have no 58063
right to have moneys raised by taxation by the state of Ohio 58064
obligated or pledged, and moneys so raised shall not be obligated 58065
or pledged, for the payment of bond service charges. The right of 58066
such holders and owners to the payment of bond service charges is 58067
limited to all or that portion of the pledged receipts and those 58068
special funds pledged thereto pursuant to the bond proceedings for 58069
such obligations in accordance with this section, and each such 58070
obligation shall bear on its face a statement to that effect. 58071

(D) Obligations shall be authorized by order of the issuing 58072
authority and the bond proceedings shall provide for the purpose 58073
thereof and the principal amount or amounts, and shall provide for 58074
or authorize the manner or agency for determining the principal 58075
maturity or maturities, not exceeding twenty-five years from the 58076
date of issuance, the interest rate or rates or the maximum 58077
interest rate, the date of the obligations and the dates of 58078
payment of interest thereon, their denomination, and the 58079
establishment within or without the state of a place or places of 58080
payment of bond service charges. Sections 9.98 to 9.983 of the 58081
Revised Code are applicable to obligations issued under this 58082

section. The purpose of such obligations may be stated in the bond 58083
proceedings in terms describing the general purpose or purposes to 58084
be served. The bond proceedings also shall provide, subject to the 58085
provisions of any other applicable bond proceedings, for the 58086
pledge of all, or such part as the issuing authority may 58087
determine, of the pledged receipts and the applicable special fund 58088
or funds to the payment of bond service charges, which pledges may 58089
be made either prior or subordinate to other expenses, claims, or 58090
payments, and may be made to secure the obligations on a parity 58091
with obligations theretofore or thereafter issued, if and to the 58092
extent provided in the bond proceedings. The pledged receipts and 58093
special funds so pledged and thereafter received by the state 58094
immediately are subject to the lien of such pledge without any 58095
physical delivery thereof or further act, and the lien of any such 58096
pledges is valid and binding against all parties having claims of 58097
any kind against the state or any governmental agency of the 58098
state, irrespective of whether such parties have notice thereof, 58099
and shall create a perfected security interest for all purposes of 58100
Chapter 1309. of the Revised Code, without the necessity for 58101
separation or delivery of funds or for the filing or recording of 58102
the bond proceedings by which such pledge is created or any 58103
certificate, statement, or other document with respect thereto; 58104
and the pledge of such pledged receipts and special funds is 58105
effective and the money therefrom and thereof may be applied to 58106
the purposes for which pledged without necessity for any act of 58107
appropriation. Every pledge, and every covenant and agreement made 58108
with respect thereto, made in the bond proceedings may therein be 58109
extended to the benefit of the owners and holders of obligations 58110
authorized by this section, and to any trustee therefor, for the 58111
further security of the payment of the bond service charges. 58112

(E) The bond proceedings may contain additional provisions as 58113
to: 58114

(1) The redemption of obligations prior to maturity at the option of the issuing authority at such price or prices and under such terms and conditions as are provided in the bond proceedings;	58115 58116 58117
(2) Other terms of the obligations;	58118
(3) Limitations on the issuance of additional obligations;	58119
(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;	58120 58121
(5) The deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority;	58122 58123 58124 58125 58126 58127 58128 58129
(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;	58130 58131 58132 58133 58134
(7) Any provision that may be made in a trust agreement or indenture;	58135 58136
(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security relating to financial assistance for qualified projects under section 5531.09 of the Revised Code.	58137 58138 58139 58140 58141
(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be	58142 58143 58144

signed or bear the facsimile signature of the issuing authority. 58145
Any obligations or coupons may be executed by the person who, on 58146
the date of execution, is the proper issuing authority although on 58147
the date of such bonds or coupons such person was not the issuing 58148
authority. In case the issuing authority whose signature or a 58149
facsimile of whose signature appears on any such obligation or 58150
coupon ceases to be the issuing authority before delivery thereof, 58151
such signature or facsimile nevertheless is valid and sufficient 58152
for all purposes as if the former issuing authority had remained 58153
the issuing authority until such delivery; and in case the seal to 58154
be affixed to obligations has been changed after a facsimile of 58155
the seal has been imprinted on such obligations, such facsimile 58156
seal shall continue to be sufficient as to such obligations and 58157
obligations issued in substitution or exchange therefor. 58158

(G) All obligations are negotiable instruments and securities 58159
under Chapter 1308. of the Revised Code, subject to the provisions 58160
of the bond proceedings as to registration. The obligations may be 58161
issued in coupon or in registered form, or both, as the issuing 58162
authority determines. Provision may be made for the registration 58163
of any obligations with coupons attached thereto as to principal 58164
alone or as to both principal and interest, their exchange for 58165
obligations so registered, and for the conversion or reconversion 58166
into obligations with coupons attached thereto of any obligations 58167
registered as to both principal and interest, and for reasonable 58168
charges for such registration, exchange, conversion, and 58169
reconversion. 58170

(H) Obligations may be sold at public sale or at private 58171
sale, as determined in the bond proceedings. 58172

(I) Pending preparation of definitive obligations, the 58173
issuing authority may issue interim receipts or certificates which 58174
shall be exchanged for such definitive obligations. 58175

(J) In the discretion of the issuing authority, obligations 58176
may be secured additionally by a trust agreement or indenture 58177
between the issuing authority and a corporate trustee which may be 58178
any trust company or bank having its principal place of business 58179
within the state. Any such agreement or indenture may contain the 58180
order authorizing the issuance of the obligations, any provisions 58181
that may be contained in any bond proceedings, and other 58182
provisions which are customary or appropriate in an agreement or 58183
indenture of such type, including, but not limited to: 58184

(1) Maintenance of each pledge, trust agreement, indenture, 58185
or other instrument comprising part of the bond proceedings until 58186
the state has fully paid the bond service charges on the 58187
obligations secured thereby, or provision therefor has been made; 58188

(2) In the event of default in any payments required to be 58189
made by the bond proceedings, or any other agreement of the 58190
issuing authority made as a part of the contract under which the 58191
obligations were issued, enforcement of such payments or agreement 58192
by mandamus, the appointment of a receiver, suit in equity, action 58193
at law, or any combination of the foregoing; 58194

(3) The rights and remedies of the holders of obligations and 58195
of the trustee, and provisions for protecting and enforcing them, 58196
including limitations on the rights of individual holders of 58197
obligations; 58198

(4) The replacement of any obligations that become mutilated 58199
or are destroyed, lost, or stolen; 58200

(5) Such other provisions as the trustee and the issuing 58201
authority agree upon, including limitations, conditions, or 58202
qualifications relating to any of the foregoing. 58203

(K) Any holder of obligations or a trustee under the bond 58204
proceedings, except to the extent that the holder's or trustee's 58205
rights are restricted by the bond proceedings, may by any suitable 58206

form of legal proceedings, protect and enforce any rights under 58207
the laws of this state or granted by such bond proceedings. Such 58208
rights include the right to compel the performance of all duties 58209
of the issuing authority and the director of transportation 58210
required by the bond proceedings or sections 5531.09 and 5531.10 58211
of the Revised Code; to enjoin unlawful activities; and in the 58212
event of default with respect to the payment of any bond service 58213
charges on any obligations or in the performance of any covenant 58214
or agreement on the part of the issuing authority or the director 58215
of transportation in the bond proceedings, to apply to a court 58216
having jurisdiction of the cause to appoint a receiver to receive 58217
and administer the pledged receipts and special funds, other than 58218
those in the custody of the treasurer of state, which are pledged 58219
to the payment of the bond service charges on such obligations or 58220
which are the subject of the covenant or agreement, with full 58221
power to pay, and to provide for payment of bond service charges 58222
on, such obligations, and with such powers, subject to the 58223
direction of the court, as are accorded receivers in general 58224
equity cases, excluding any power to pledge additional revenues or 58225
receipts or other income or moneys of the state or local 58226
governmental entities, or agencies thereof, to the payment of such 58227
principal and interest and excluding the power to take possession 58228
of, mortgage, or cause the sale or otherwise dispose of any 58229
project facilities. 58230

Each duty of the issuing authority and the issuing 58231
authority's officers and employees, and of each state or local 58232
governmental agency and its officers, members, or employees, 58233
undertaken pursuant to the bond proceedings or any loan, loan 58234
guarantee, lease, lease-purchase agreement, or other agreement 58235
made under authority of section 5531.09 of the Revised Code, and 58236
in every agreement by or with the issuing authority, is hereby 58237
established as a duty of the issuing authority, and of each such 58238

officer, member, or employee having authority to perform such 58239
duty, specifically enjoined by the law resulting from an office, 58240
trust, or station within the meaning of section 2731.01 of the 58241
Revised Code. 58242

The person who is at the time the issuing authority, or the 58243
issuing authority's officers or employees, are not liable in their 58244
personal capacities on any obligations issued by the issuing 58245
authority or any agreements of or with the issuing authority. 58246

(L) The issuing authority may authorize and issue obligations 58247
for the refunding, including funding and retirement, and advance 58248
refunding with or without payment or redemption prior to maturity, 58249
of any obligations previously issued by the issuing authority or 58250
of district obligations. Such refunding obligations may be issued 58251
in amounts sufficient for payment of the principal amount of the 58252
prior obligations or district obligations, any redemption premiums 58253
thereon, principal maturities of any such obligations or district 58254
obligations maturing prior to the redemption of the remaining 58255
obligations or district obligations on a parity therewith, 58256
interest accrued or to accrue to the maturity dates or dates of 58257
redemption of such obligations or district obligations, and any 58258
expenses incurred or to be incurred in connection with such 58259
issuance and such refunding, funding, and retirement. Subject to 58260
the bond proceedings therefor, the portion of proceeds of the sale 58261
of refunding obligations issued under this division to be applied 58262
to bond service charges on the prior obligations or district 58263
obligations shall be credited to an appropriate account held by 58264
the trustee for such prior or new obligations or to the 58265
appropriate account in the bond service fund for such obligations 58266
or district obligations. Obligations authorized under this 58267
division shall be deemed to be issued for those purposes for which 58268
such prior obligations or district obligations were issued and are 58269
subject to the provisions of this section pertaining to other 58270

obligations, except as otherwise provided in this section. The 58271
last maturity of obligations authorized under this division shall 58272
not be later than twenty-five years from the date of issuance of 58273
the original securities issued for the original purpose. 58274

(M) The authority to issue obligations under this section 58275
includes authority to issue obligations in the form of bond 58276
anticipation notes and to renew the same from time to time by the 58277
issuance of new notes. The holders of such notes or interest 58278
coupons pertaining thereto shall have a right to be paid solely 58279
from the pledged receipts and special funds that may be pledged to 58280
the payment of the bonds anticipated, or from the proceeds of such 58281
bonds or renewal notes, or both, as the issuing authority provides 58282
in the order authorizing such notes. Such notes may be 58283
additionally secured by covenants of the issuing authority to the 58284
effect that the issuing authority and the state will do such or 58285
all things necessary for the issuance of such bonds or renewal 58286
notes in the appropriate amount, and apply the proceeds thereof to 58287
the extent necessary, to make full payment of the principal of and 58288
interest on such notes at the time or times contemplated, as 58289
provided in such order. For such purpose, the issuing authority 58290
may issue bonds or renewal notes in such principal amount and upon 58291
such terms as may be necessary to provide funds to pay when 58292
required the principal of and interest on such notes, 58293
notwithstanding any limitations prescribed by or for purposes of 58294
this section. Subject to this division, all provisions for and 58295
references to obligations in this section are applicable to notes 58296
authorized under this division. 58297

The issuing authority in the bond proceedings authorizing the 58298
issuance of bond anticipation notes shall set forth for such bonds 58299
an estimated interest rate and a schedule of principal payments 58300
for such bonds and the annual maturity dates thereof. 58301

(N) Obligations issued under this section are lawful 58302

investments for banks, societies for savings, savings and loan 58303
associations, deposit guarantee associations, trust companies, 58304
trustees, fiduciaries, insurance companies, including domestic for 58305
life and domestic not for life, trustees or other officers having 58306
charge of sinking and bond retirement or other special funds of 58307
political subdivisions and taxing districts of this state, the 58308
commissioners of the sinking fund of the state, the administrator 58309
of workers' compensation in accordance with the investment policy 58310
established by the workers' compensation oversight commission 58311
pursuant to section 4121.12 of the Revised Code, the state 58312
teachers retirement system, the public employees retirement 58313
system, the school employees retirement system, and the Ohio 58314
police and fire pension fund, notwithstanding any other provisions 58315
of the Revised Code or rules adopted pursuant thereto by any 58316
agency of the state with respect to investments by them, and are 58317
also acceptable as security for the deposit of public moneys. 58318

(O) Unless otherwise provided in any applicable bond 58319
proceedings, moneys to the credit of or in the special funds 58320
established by or pursuant to this section may be invested by or 58321
on behalf of the issuing authority only in notes, bonds, or other 58322
obligations of the United States, or of any agency or 58323
instrumentality of the United States, obligations guaranteed as to 58324
principal and interest by the United States, obligations of this 58325
state or any political subdivision of this state, and certificates 58326
of deposit of any national bank located in this state and any 58327
bank, as defined in section 1101.01 of the Revised Code, subject 58328
to inspection by the superintendent of financial institutions. If 58329
the law or the instrument creating a trust pursuant to division 58330
(J) of this section expressly permits investment in direct 58331
obligations of the United States or an agency of the United 58332
States, unless expressly prohibited by the instrument, such moneys 58333
also may be invested in no-front-end-load money market mutual 58334

funds consisting exclusively of obligations of the United States 58335
or an agency of the United States and in repurchase agreements, 58336
including those issued by the fiduciary itself, secured by 58337
obligations of the United States or an agency of the United 58338
States; and in collective investment funds as defined in division 58339
(A) of section 1111.01 of the Revised Code and consisting 58340
exclusively of any such securities. The income from such 58341
investments shall be credited to such funds as the issuing 58342
authority determines, and such investments may be sold at such 58343
times as the issuing authority determines or authorizes. 58344

(P) Provision may be made in the applicable bond proceedings 58345
for the establishment of separate accounts in the bond service 58346
fund and for the application of such accounts only to the 58347
specified bond service charges on obligations pertinent to such 58348
accounts and bond service fund and for other accounts therein 58349
within the general purposes of such fund. Unless otherwise 58350
provided in any applicable bond proceedings, moneys to the credit 58351
of or in the several special funds established pursuant to this 58352
section shall be disbursed on the order of the treasurer of state, 58353
provided that no such order is required for the payment from the 58354
bond service fund when due of bond service charges on obligations. 58355

(Q)(1) The issuing authority may pledge all, or such portion 58356
as the issuing authority determines, of the pledged receipts to 58357
the payment of bond service charges on obligations issued under 58358
this section, and for the establishment and maintenance of any 58359
reserves, as provided in the bond proceedings, and make other 58360
provisions therein with respect to pledged receipts as authorized 58361
by this chapter, which provisions are controlling notwithstanding 58362
any other provisions of law pertaining thereto. 58363

(2) An action taken under division (Q)(2) of this section 58364
does not limit the generality of division (Q)(1) of this section, 58365
and is subject to division (C) of this section and, if and to the 58366

extent otherwise applicable, Section 13 of Article VIII, Ohio
Constitution. The bond proceedings may contain a covenant that, in
the event the pledged receipts primarily pledged and required to
be used for the payment of bond service charges on obligations
issued under this section, and for the establishment and
maintenance of any reserves, as provided in the bond proceedings,
are insufficient to make any such payment in full when due, or to
maintain any such reserve, the director of transportation shall so
notify the governor, and shall determine to what extent, if any,
the payment may be made or moneys may be restored to the reserves
from lawfully available moneys previously appropriated for that
purpose to the department of transportation. The covenant also may
provide that if the payments are not made or the moneys are not
immediately and fully restored to the reserves from such moneys,
the director shall promptly submit to the governor and to the
director of budget and management a written request for either or
both of the following:

(a) That the next biennial budget submitted by the governor
to the general assembly include an amount to be appropriated from
lawfully available moneys to the department for the purpose of and
sufficient for the payment in full of bond service charges
previously due and for the full replenishment of the reserves;

(b) That the general assembly be requested to increase
appropriations from lawfully available moneys for the department
in the current biennium sufficient for the purpose of and for the
payment in full of bond service charges previously due and to come
due in the biennium and for the full replenishment of the
reserves.

The director of transportation shall include with such
requests a recommendation that the payment of the bond service
charges and the replenishment of the reserves be made in the
interest of maximizing the benefits of the state infrastructure

bank. Any such covenant shall not obligate or purport to obligate 58399
the state to pay the bond service charges on such bonds or notes 58400
or to deposit moneys in a reserve established for such payments 58401
other than from moneys that may be lawfully available and 58402
appropriated for that purpose during the then-current biennium. 58403

(R) There is hereby created the state infrastructure bank 58404
revenue bond service fund, which shall be in the custody of the 58405
treasurer of state but shall not be a part of the state treasury. 58406
All moneys received by or on account of the issuing authority or 58407
state agencies and required by the applicable bond proceedings, 58408
consistent with this section, to be deposited, transferred, or 58409
credited to the bond service fund, and all other moneys 58410
transferred or allocated to or received for the purposes of the 58411
fund, shall be deposited and credited to such fund and to any 58412
separate accounts therein, subject to applicable provisions of the 58413
bond proceedings, but without necessity for any act of 58414
appropriation. The state infrastructure bank revenue bond service 58415
fund is a trust fund and is hereby pledged to the payment of bond 58416
service charges to the extent provided in the applicable bond 58417
proceedings, and payment thereof from such fund shall be made or 58418
provided for by the treasurer of state in accordance with such 58419
bond proceedings without necessity for any act of appropriation. 58420

(S) The obligations issued pursuant to this section, the 58421
transfer thereof, and the income therefrom, including any profit 58422
made on the sale thereof, shall at all times be free from taxation 58423
within this state. 58424

Sec. 5540.01. As used in this chapter: 58425

(A) "Transportation improvement district" or "district" means 58426
a transportation improvement district designated pursuant to 58427
section 5540.02 of the Revised Code. 58428

(B) "Governmental agency" means a department, division, or 58429
other unit of state government; a county, township, or municipal 58430
corporation or other political subdivision; a regional transit 58431
authority or regional transit commission created pursuant to 58432
Chapter 306. of the Revised Code; a port authority created 58433
pursuant to Chapter 4582. of the Revised Code; and the United 58434
States or any agency thereof. 58435

(C) "Project" means a street, highway, or other 58436
transportation project constructed or improved under this chapter 58437
and includes all bridges, tunnels, overpasses, underpasses, 58438
interchanges, approaches, those portions of connecting streets or 58439
highways that serve interchanges and are determined by the 58440
district to be necessary for the safe merging of traffic between 58441
the project and those streets or highways, service facilities, and 58442
administration, storage, and other buildings, property, and 58443
facilities, that the district considers necessary for the 58444
operation of the project, together with all property and rights 58445
that must be acquired by the district for the construction, 58446
maintenance, or operation of the project. 58447

(D) "Cost," as applied to the construction of a project, 58448
includes the cost of construction, including bridges over or under 58449
existing highways and railroads, acquisition of all property 58450
acquired by the district for such construction, demolishing or 58451
removing any buildings or structures on land so acquired, 58452
including the cost of acquiring any lands to which such buildings 58453
or structures may be moved, site clearance, improvement, and 58454
preparation, diverting streets or highways, interchanges with 58455
streets or highways, access roads to private property, including 58456
the cost of land or easements therefor, all machinery, 58457
furnishings, and equipment, communications facilities, financing 58458
expenses, interest prior to and during construction and for one 58459
year after completion of construction, traffic estimates, 58460

indemnity and surety bonds and premiums on insurance, and 58461
guarantees, engineering, feasibility studies, and legal expenses, 58462
plans, specifications, surveys, estimates of cost and revenues, 58463
other expenses necessary or incidental to determining the 58464
feasibility or practicability of constructing a project, and such 58465
other expense as may be necessary or incident to the construction 58466
of the project and the financing of such construction. Any 58467
obligation or expense incurred by any governmental agency or 58468
person for surveys, borings, preparation of plans and 58469
specifications, and other engineering services, or any other cost 58470
described above, in connection with the construction of a project 58471
may be regarded as part of the cost of the project and reimbursed 58472
from revenues, taxes, or the proceeds of bonds as authorized by 58473
this chapter. 58474

(E) "Owner" includes any person having any title or interest 58475
in any property authorized to be acquired by a district under this 58476
chapter. 58477

(F) "Revenues" means all moneys received by a district with 58478
respect to the lease, sublease, or sale, including installment 58479
sale, conditional sale, or sale under a lease-purchase agreement, 58480
of a project, all moneys received by a district under an agreement 58481
pursuant to section 5540.032 of the Revised Code, any gift or 58482
grant received with respect to a project, tolls, special 58483
assessments levied by the district, proceeds of bonds to the 58484
extent the use thereof for payment of principal or of premium, if 58485
any, or interest on the bonds is authorized by the district, 58486
proceeds from any insurance, condemnation, or guaranty pertaining 58487
to a project or property mortgaged to secure bonds or pertaining 58488
to the financing of a project, and income and profit from the 58489
investment of the proceeds of bonds or of any revenues. 58490

(G) "Street or highway" has the same meaning as in section 58491
4511.01 of the Revised Code. 58492

(H) "Financing expenses" means all costs and expenses 58493
relating to the authorization, issuance, sale, delivery, 58494
authentication, deposit, custody, clearing, registration, 58495
transfer, exchange, fractionalization, replacement, payment, and 58496
servicing of bonds including, without limitation, costs and 58497
expenses for or relating to publication and printing, postage, 58498
delivery, preliminary and final official statements, offering 58499
circulars, and informational statements, travel and 58500
transportation, underwriters, placement agents, investment 58501
bankers, paying agents, registrars, authenticating agents, 58502
remarketing agents, custodians, clearing agencies or corporations, 58503
securities depositories, financial advisory services, 58504
certifications, audits, federal or state regulatory agencies, 58505
accounting and computation services, legal services and obtaining 58506
approving legal opinions and other legal opinions, credit ratings, 58507
redemption premiums, and credit enhancement facilities. 58508

(I) "Bond proceedings" means the resolutions, trust 58509
agreements, certifications, notices, sale proceedings, leases, 58510
lease-purchase agreements, assignments, credit enhancement 58511
facility agreements, and other agreements, instruments, and 58512
documents, as amended and supplemented, or any one or more of 58513
combination thereof, authorizing, or authorizing or providing for 58514
the terms and conditions applicable to, or providing for the 58515
security or sale or award or liquidity of, bonds, and includes the 58516
provisions set forth or incorporated in those bonds and bond 58517
proceedings. 58518

(J) "Bond service charges" means principal, including any 58519
mandatory sinking fund or mandatory redemption requirements for 58520
retirement of bonds, and interest and any redemption premium 58521
payable on bonds, as those payments come due and are payable to 58522
the bondholder or to a person making payment under a credit 58523
enhancement facility of those bond service charges to a 58524

bondholder. 58525

(K) "Bond service fund" means the applicable fund created by 58526
the bond proceedings for and pledged to the payment of bond 58527
service charges on bonds provided for by those proceedings, 58528
including all moneys and investments, and earnings from 58529
investments, credited and to be credited to that fund as provided 58530
in the bond proceedings. 58531

(L) "Bonds" means bonds, notes, including notes anticipating 58532
bonds or other notes, commercial paper, certificates of 58533
participation, or other evidences of obligation, including any 58534
interest coupons pertaining thereto, issued pursuant to this 58535
chapter. 58536

(M) "Net revenues" means revenues lawfully available to pay 58537
both current operating expenses of a district and bond service 58538
charges in any fiscal year or other specified period, less current 58539
operating expenses of the district and any amount necessary to 58540
maintain a working capital reserve for that period. 58541

(N) "Pledged revenues" means net revenues, moneys and 58542
investments, and earnings on those investments, in the applicable 58543
bond service fund and any other special funds, and the proceeds of 58544
any bonds issued for the purpose of refunding prior bonds, all as 58545
lawfully available and by resolution of the district committed for 58546
application as pledged revenues to the payment of bond service 58547
charges on particular issues of bonds. 58548

(O) "Special funds" means the applicable bond service fund 58549
and any accounts and subaccounts in that fund, any other funds or 58550
accounts permitted by and established under, and identified as a 58551
special fund or special account in, the bond proceedings, 58552
including any special fund or account established for purposes of 58553
rebate or other requirements under federal income tax laws. 58554

(P) "Credit enhancement facilities" means letters of credit, 58555

lines of credit, standby, contingent, or firm securities purchase 58556
agreements, insurance, or surety arrangements, guarantees, and 58557
other arrangements that provide for direct or contingent payment 58558
of bond service charges, for security or additional security in 58559
the event of nonpayment or default in respect of bonds, or for 58560
making payment of bond service charges and at the option and on 58561
demand of bondholders or at the option of the district or upon 58562
certain conditions occurring under put or similar arrangements, or 58563
for otherwise supporting the credit or liquidity of the bonds, and 58564
includes credit, reimbursement, marketing, remarketing, indexing, 58565
carrying, interest rate hedge, and subrogation agreements, and 58566
other agreements and arrangements for payment and reimbursement of 58567
the person providing the credit enhancement facility and the 58568
security for that payment and reimbursement. 58569

(Q) "Refund" means to fund and retire outstanding bonds, 58570
including advance refunding with or without payment or redemption 58571
prior to stated maturity. 58572

(R) "Property" includes interests in property. 58573

(S) "Administrative agent," "agent," "commercial paper," 58574
"floating rate interest structure," "indexing agent," "interest 58575
rate hedge," "interest rate period," "put arrangement," and 58576
"remarketing agent" have the same meanings as in section 9.98 of 58577
the Revised Code. 58578

(T) "Outstanding" as applied to bonds means outstanding in 58579
accordance with the terms of the bonds and the applicable bond 58580
proceedings. 58581

(U) "Interstate system" has the same meaning as in section 58582
5516.01 of the Revised Code. 58583

Sec. 5540.032. (A) A transportation improvement district and 58584
any governmental agency may enter into an agreement providing for 58585

the joint financing, construction, acquisition, or improvement of 58586
any project benefiting the parties thereto and providing for the 58587
joint management, maintenance, and repair thereof. Any such 58588
agreement shall be approved by resolution or ordinance passed by 58589
the legislative authority of each of the parties to such 58590
agreement, which resolution or ordinance shall authorize the 58591
execution thereof by a designated official or officials of each of 58592
such parties, and such agreement, when so approved and executed, 58593
shall be in full force and effect. 58594

(B)(1) Subject to division (B)(2) of this section, any party 58595
to such an agreement may issue and, notwithstanding any other 58596
provision of the Revised Code, a district may purchase directly 58597
from the party as an investment, securities to evidence the 58598
obligations of that party to the district pursuant to the 58599
agreement for its portion of the cost of the project pursuant to 58600
Chapter 133. or other applicable provisions of the Revised Code. 58601

(2) More than half of the property necessary for any project 58602
undertaken pursuant to an agreement under this section for which a 58603
district is purchasing securities under division (B)(1) of this 58604
section shall be located within the territory of the 58605
transportation improvement district. 58606

Sec. 5540.09. (A) The bonds do not constitute a debt, or a 58607
pledge of the faith and credit, of the state or of any political 58608
subdivision of the state. Bond service charges on outstanding 58609
bonds are payable solely from the pledged revenues pledged for 58610
their payment as authorized by this chapter and as provided in the 58611
bond proceedings. All bonds shall contain on their face a 58612
statement to that effect. 58613

(B) All expenses incurred in carrying out this chapter shall 58614
be payable solely from revenues provided under this chapter. ~~This~~ 58615
Except as provided in section 5540.032 of the Revised Code, this 58616

chapter does not authorize the board of trustees of a district to 58617
incur indebtedness or liability on behalf of or payable by the 58618
state or any political subdivision of the state. 58619

Sec. 5552.01. As used in this chapter: 58620

(A) "Metropolitan planning organization" ~~has the same meaning~~ 58621
~~as in division (A)(7) of section 3704.14 of the Revised Code~~ means 58622
a metropolitan planning organization designated under section 9(a) 58623
of the "Federal-Aid Highway Act of 1962," 76 Stat. 1148, 23 U.S.C. 58624
134, as amended. 58625

(B) "Urban township" means a township that has a population 58626
in the unincorporated area of the township of fifteen thousand or 58627
more and that has adopted a limited home rule government under 58628
section 504.02 of the Revised Code. 58629

Sec. 5703.052. (A) There is hereby created in the state 58630
treasury the tax refund fund, from which refunds shall be paid for 58631
taxes illegally or erroneously assessed or collected, or for any 58632
other reason overpaid, that are levied by Chapter 4301., 4305., 58633
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 58634
5749., or ~~5753-~~ 5751., and sections 3737.71, 3905.35, 3905.36, 58635
4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 58636
of the Revised Code. Refunds for fees illegally or erroneously 58637
assessed or collected, or for any other reason overpaid, that are 58638
levied by sections 3734.90 to 3734.9014 of the Revised Code also 58639
shall be paid from the fund. However, refunds for taxes levied 58640
under section 5739.101 of the Revised Code shall not be paid from 58641
the tax refund fund, but shall be paid as provided in section 58642
5739.104 of the Revised Code. 58643

(B)(1) Upon certification by the tax commissioner to the 58644
treasurer of state of a tax refund or fee refund, or by the 58645
superintendent of insurance of a domestic or foreign insurance tax 58646

refund, the treasurer of state shall place the amount certified to 58647
the credit of the fund. The certified amount transferred shall be 58648
derived from current receipts of the same tax or the fee from 58649
which the refund arose. If current receipts from the tax or fee 58650
from which the refund arose are inadequate to make the transfer of 58651
the amount so certified, the treasurer of state shall transfer 58652
such certified amount from current receipts of the sales tax 58653
levied by section 5739.02 of the Revised Code. 58654

(2) When the treasurer of state provides for the payment of a 58655
refund of a tax or fee from the current receipts of the sales tax, 58656
and the refund is for a tax or fee that is not levied by the 58657
state, the tax commissioner shall recover the amount of that 58658
refund from the next distribution of that tax or fee that 58659
otherwise would be made to the taxing jurisdiction. If the amount 58660
to be recovered would exceed twenty-five per cent of the next 58661
distribution of that tax or fee, the commissioner may spread the 58662
recovery over more than one future distribution, taking into 58663
account the amount to be recovered and the amount of the 58664
anticipated future distributions. In no event may the commissioner 58665
spread the recovery over a period to exceed twenty-four months. 58666

Sec. 5703.053. As used in this section, "postal service" 58667
means the United States postal service. 58668

An application to the tax commissioner for a tax refund under 58669
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 58670
5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 58671
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 58672
or division (B) of section 5703.05 of the Revised Code, or a fee 58673
refunded under section 3734.905 of the Revised Code, that is 58674
received after the last day for filing under such section shall be 58675
considered to have been filed in a timely manner if: 58676

(A) The application is delivered by the postal service and 58677

the earliest postal service postmark on the cover in which the
application is enclosed is not later than the last day for filing
the application;

(B) The application is delivered by the postal service, the
only postmark on the cover in which the application is enclosed
was affixed by a private postal meter, the date of that postmark
is not later than the last day for filing the application, and the
application is received within seven days of such last day; or

(C) The application is delivered by the postal service, no
postmark date was affixed to the cover in which the application is
enclosed or the date of the postmark so affixed is not legible,
and the application is received within seven days of the last day
for making the application.

Sec. 5703.057. (A) For the efficient administration of the
taxes and fees administered by the tax commissioner, the
commissioner may require that any person filing a tax document
with the department of taxation provide identifying information,
which may include the person's social security number, federal
employer identification number, or other identification number
requested by the commissioner. A person required by the
commissioner to provide identifying information who has
experienced any change with respect to that information shall
notify the commissioner of the change prior to, or upon, filing
the next tax document requiring such identifying information.

(B) When transmitting or otherwise making use of a tax
document that contains a person's social security number, the
commissioner shall take all reasonable measures necessary to
ensure that the number is not capable of being viewed by the
general public, including, when necessary, masking the number so
that it is not readily discernible by the general public.

(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion.

(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars.

(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law.

(D) Section 5703.26 of the Revised Code applies with respect to false or fraudulent identifying information provided by a person to the commissioner under this section.

Sec. 5703.26. No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by law to be filed with the department of

taxation, the treasurer of state, a county auditor, a county 58739
treasurer, or a county clerk of courts, or knowingly procure, 58740
counsel, or advise the preparation or presentation of such report, 58741
return, schedule, statement, claim, or document, or knowingly 58742
change, alter, or amend, or knowingly procure, counsel, or advise 58743
such change, alteration, or amendment of the records upon which 58744
such report, return, schedule, statement, claim, or document is 58745
based with intent to defraud the state or any of its subdivisions. 58746

~~With respect to such acts or conduct, no conviction shall be 58747
had under any other section of the Revised Code. 58748~~

Sec. 5703.47. (A) As used in this section, "federal 58749
short-term rate" means the rate of the average market yield on 58750
outstanding marketable obligations of the United States with 58751
remaining periods to maturity of three years or less, as 58752
determined under section 1274 of the "Internal Revenue Code of 58753
1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current 58754
year. 58755

(B) On the fifteenth day of October of each year, the tax 58756
commissioner shall determine the federal short-term rate. For 58757
purposes of any section of the Revised Code requiring interest to 58758
be computed at the rate per annum required by this section, the 58759
rate determined by the commissioner under this section, rounded to 58760
the nearest whole number per cent, plus three per cent, shall be 58761
the interest rate per annum used in making the computation for 58762
interest that accrues during the following calendar year. 58763

(C) For the purposes of section 5719.041 of the Revised Code, 58764
references to the "federal short-term rate" are references to the 58765
federal short-term rate as determined by the tax commissioner 58766
under this section rounded to the nearest whole number per cent. 58767

~~(C)~~(D) Within ten days after the interest rate per annum is 58768
determined under this section, the tax commissioner shall notify 58769

the auditor of each county in writing of ~~that~~ the rate of interest 58770
determined under division (B) of this section and the rate of 58771
interest described in division (C) of this section. 58772

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the 58773
Revised Code: 58774

(A) "Tax" includes only those taxes imposed on tangible 58775
personal property listed in accordance with Chapter 5711. of the 58776
Revised Code and taxes imposed under Chapters 5733., 5739., 5741., 58777
~~and~~ 5747., and 5751. of the Revised Code. 58778

(B) "Taxpayer" means a person subject to or potentially 58779
subject to a tax including an employer required to deduct and 58780
withhold any amount under section 5747.06 of the Revised Code. 58781

(C) "Audit" means the examination of a taxpayer or the 58782
inspection of the books, records, memoranda, or accounts of a 58783
taxpayer for the purpose of determining liability for a tax. 58784

(D) "Assessment" means a notice of underpayment or nonpayment 58785
of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 58786
5739.13, 5741.11, 5741.13, ~~or~~ 5747.13, or 5751.09 of the Revised 58787
Code. 58788

(E) "County auditor" means the auditor of the county in which 58789
the tangible personal property subject to a tax is located. 58790

Sec. 5703.70. (A) On the filing of an application for refund 58791
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 58792
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 58793
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 58794
~~or~~ 5749.08, or 5751.08 of the Revised Code, or an application for 58795
compensation under section 5739.123 of the Revised Code, if the 58796
tax commissioner determines that the amount of the refund or 58797
compensation to which the applicant is entitled is less than the 58798
amount claimed in the application, the commissioner shall give the 58799

applicant written notice by ordinary mail of the amount. The 58800
notice shall be sent to the address shown on the application 58801
unless the applicant notifies the commissioner of a different 58802
address. The applicant shall have sixty days from the date the 58803
commissioner mails the notice to provide additional information to 58804
the commissioner or request a hearing, or both. 58805

(B) If the applicant neither requests a hearing nor provides 58806
additional information to the tax commissioner within the time 58807
prescribed by division (A) of this section, the commissioner shall 58808
take no further action, and the refund amount or compensation 58809
amount denied becomes final. 58810

(C)(1) If the applicant requests a hearing within the time 58811
prescribed by division (A) of this section, the tax commissioner 58812
shall assign a time and place for the hearing and notify the 58813
applicant of such time and place, but the commissioner may 58814
continue the hearing from time to time as necessary. After the 58815
hearing, the commissioner may make such adjustments to the refund 58816
or compensation as the commissioner finds proper, and shall issue 58817
a final determination thereon. 58818

(2) If the applicant does not request a hearing, but provides 58819
additional information, within the time prescribed by division (A) 58820
of this section, the commissioner shall review the information, 58821
make such adjustments to the refund or compensation as the 58822
commissioner finds proper, and issue a final determination 58823
thereon. 58824

(3) The commissioner shall serve a copy of the final 58825
determination made under division (C)(1) or (2) of this section on 58826
the applicant in the manner provided in section 5703.37 of the 58827
Revised Code, and the decision is final, subject to appeal under 58828
section 5717.02 of the Revised Code. 58829

(D) The tax commissioner shall certify to the director of 58830

budget and management and treasurer of state for payment from the 58831
tax refund fund created by section 5703.052 of the Revised Code, 58832
the amount of the refund to be refunded under division (B) or (C) 58833
of this section. The commissioner also shall certify to the 58834
director and treasurer of state for payment from the general 58835
revenue fund the amount of compensation to be paid under division 58836
(B) or (C) of this section. 58837

Sec. 5703.80. There is hereby created in the state treasury 58838
the property tax administration fund. All money to the credit of 58839
the fund shall be used to defray the costs incurred by the 58840
department of taxation in administering the taxation of property 58841
and the equalization of real property valuation. 58842

Each fiscal year between the first and fifteenth days of 58843
July, the tax commissioner shall compute the following amounts for 58844
the property in each taxing district in each county, and certify 58845
to the director of budget and management the sum of those amounts 58846
for all taxing districts in all counties: 58847

(A) ~~Three tenths~~ For fiscal year 2006, thirty-three 58848
hundredths of one per cent of the total amount by which taxes 58849
charged against real property on the general tax list of real and 58850
public utility property were reduced under section 319.302 of the 58851
Revised Code for the preceding tax year; 58852

(B) ~~Fifteen hundredths~~ For fiscal year 2007 and thereafter, 58853
thirty-five hundredths of one per cent of the total amount by 58854
which taxes charged against real property on the general tax list 58855
of real and public utility property were reduced under section 58856
319.302 of the Revised Code for the preceding tax year; 58857

(C) For fiscal year 2006, one-half of one per cent of the 58858
total amount of taxes charged and payable against public utility 58859
personal property on the general tax list of real and public 58860

utility property for the preceding tax year and of the total 58861
amount of taxes charged and payable against tangible personal 58862
property on the general tax list of personal property of the 58863
preceding tax year and for which returns were filed with the tax 58864
commissioner under section 5711.13 of the Revised Code; 58865

~~(C) Seventy five~~ (D) For fiscal year 2007, fifty-six 58866
hundredths of one per cent of the total amount of taxes charged 58867
and payable against public utility personal property on the 58868
general tax list of real and public utility property for the 58869
preceding tax year and of the total amount of taxes charged and 58870
payable against tangible personal property on the general tax list 58871
of personal property of the preceding tax year and for which 58872
returns were filed with the tax commissioner under section 5711.13 58873
of the Revised Code; 58874

(E) For fiscal year 2008 and thereafter, six-tenths of one 58875
per cent of the total amount of taxes charged and payable against 58876
public utility personal property on the general tax list of real 58877
and public utility property for the preceding tax year and of the 58878
total amount of taxes charged and payable against tangible 58879
personal property on the general tax list of personal property of 58880
the preceding tax year and for which returns were filed with the 58881
tax commissioner under section 5711.13 of the Revised Code. 58882

After receiving the tax commissioner's certification, the 58883
director of budget and management shall transfer from the general 58884
revenue fund to the property tax administration fund one-fourth of 58885
the amount certified on or before each of the following days: the 58886
first days of August, November, February, and May. 58887

On or before the thirtieth day of June of the fiscal year, 58888
the tax commissioner shall certify to the director of budget and 58889
management the sum of the amounts by which the amounts computed 58890
for a taxing district under ~~divisions (A), (B), and (C)~~ of this 58891
section exceeded the distributions to the taxing district under 58892

division (F) of section 321.24 of the Revised Code, and the 58893
director shall transfer that sum from the property tax 58894
administration fund to the general revenue fund. 58895

Sec. 5703.99. (A) Whoever violates section 5703.21 of the 58896
Revised Code shall be fined not less than fifty nor more than one 58897
hundred dollars. 58898

(B) Whoever violates section 5703.26 of the Revised Code is 58899
guilty of a felony of the fifth degree, ~~and the court may impose~~ 58900
~~upon the offender an additional fine of not more than seven~~ 58901
~~thousand five hundred dollars.~~ 58902

(C) Whoever violates section 5703.43 of the Revised Code 58903
~~shall be fined not more than one thousand dollars~~ is guilty of a 58904
misdemeanor of the first degree. 58905

(D) Whoever violates any law that the department of taxation 58906
is required to administer, or fails to perform any duty required 58907
by such law, for which a penalty has not otherwise been provided, 58908
or fails to obey any lawful requirement or order made by the 58909
department of taxation, shall be fined not less than ~~twenty five~~ 58910
one hundred fifty nor more than one thousand dollars. 58911

Sec. 5705.091. The board of county commissioners of each 58912
county shall establish a county mental retardation and 58913
developmental disabilities general fund. Notwithstanding sections 58914
5705.09 and 5705.10 of the Revised Code, proceeds from levies 58915
under section 5705.222 and division (L) of section 5705.19 of the 58916
Revised Code shall be deposited to the credit of the county mental 58917
retardation and developmental disabilities general fund. Accounts 58918
shall be established within the county mental retardation and 58919
developmental disabilities general fund for each of the several 58920
particular purposes of the levies as specified in the resolutions 58921
under which the levies were approved, and proceeds from different 58922

levies that were approved for the same particular purpose shall be 58923
credited to accounts for that purpose. Other money received by the 58924
county for the purposes of Chapters 3323. and 5126. of the Revised 58925
Code and not required by state or federal law to be deposited to 58926
the credit of a different fund shall also be deposited to the 58927
credit of the county mental retardation and developmental 58928
disabilities general fund, in an account appropriate to the 58929
particular purpose for which the money was received. Unless 58930
otherwise provided by law, an unexpended balance at the end of a 58931
fiscal year in any account in the county mental retardation and 58932
developmental disabilities general fund shall be appropriated the 58933
next fiscal year to the same fund. 58934

A county board of mental retardation and developmental 58935
disabilities may request, by resolution, that the board of county 58936
commissioners establish a county mental retardation and 58937
developmental disabilities capital fund for money to be used for 58938
acquisition, construction, or improvement of capital facilities or 58939
acquisition of capital equipment used in providing services to 58940
mentally retarded and developmentally disabled persons. The county 58941
board of mental retardation and developmental disabilities shall 58942
transmit a certified copy of the resolution to the board of county 58943
commissioners. Upon receiving the resolution, the board of county 58944
commissioners shall establish a county mental retardation and 58945
developmental disabilities capital fund. 58946

A county board shall request, by resolution, that the board 58947
of county commissioners establish a county MR/DD medicaid reserve 58948
fund. On receipt of the resolution, the board of county 58949
commissioners shall establish a county MR/DD medicaid reserve 58950
fund. The portion of federal revenue funds that the county board 58951
earns for providing ~~habilitation center services~~, medicaid case 58952
management services, and home and community-based services that is 58953
needed for the county board to pay for extraordinary costs, 58954

including extraordinary costs for services to individuals with 58955
mental retardation or other developmental disability, and ensure 58956
the availability of adequate funds in the event a county property 58957
tax levy for services for individuals with mental retardation or 58958
other developmental disability fails shall be deposited into the 58959
fund. The county board shall use money in the fund for those 58960
purposes in accordance with rules adopted under section 5123.0413 58961
of the Revised Code. 58962

Sec. 5705.19. This section does not apply to school districts 58963
or county school financing districts. 58964

The taxing authority of any subdivision at any time and in 58965
any year, by vote of two-thirds of all the members of the taxing 58966
authority, may declare by resolution and certify the resolution to 58967
the board of elections not less than seventy-five days before the 58968
election upon which it will be voted that the amount of taxes that 58969
may be raised within the ten-mill limitation will be insufficient 58970
to provide for the necessary requirements of the subdivision and 58971
that it is necessary to levy a tax in excess of that limitation 58972
for any of the following purposes: 58973

(A) For current expenses of the subdivision, except that the 58974
total levy for current expenses of a detention facility district 58975
or district organized under section 2151.65 of the Revised Code 58976
shall not exceed two mills and that the total levy for current 58977
expenses of a combined district organized under sections 2151.65 58978
and 2152.41 of the Revised Code shall not exceed four mills; 58979

(B) For the payment of debt charges on certain described 58980
bonds, notes, or certificates of indebtedness of the subdivision 58981
issued subsequent to January 1, 1925; 58982

(C) For the debt charges on all bonds, notes, and 58983
certificates of indebtedness issued and authorized to be issued 58984
prior to January 1, 1925; 58985

(D) For a public library of, or supported by, the subdivision	58986
under whatever law organized or authorized to be supported;	58987
(E) For a municipal university, not to exceed two mills over	58988
the limitation of one mill prescribed in section 3349.13 of the	58989
Revised Code;	58990
(F) For the construction or acquisition of any specific	58991
permanent improvement or class of improvements that the taxing	58992
authority of the subdivision may include in a single bond issue;	58993
(G) For the general construction, reconstruction,	58994
resurfacing, and repair of streets, roads, and bridges in	58995
municipal corporations, counties, or townships;	58996
(H) For parks and recreational purposes;	58997
(I) For the purpose of providing and maintaining fire	58998
apparatus, appliances, buildings, or sites therefor, or sources of	58999
water supply and materials therefor, or the establishment and	59000
maintenance of lines of fire alarm telegraph, or the payment of	59001
permanent, part-time, or volunteer firefighters or firefighting	59002
companies to operate the same, including the payment of the	59003
firefighter employers' contribution required under section 742.34	59004
of the Revised Code, or the purchase of ambulance equipment, or	59005
the provision of ambulance, paramedic, or other emergency medical	59006
services operated by a fire department or firefighting company;	59007
(J) For the purpose of providing and maintaining motor	59008
vehicles, communications, other equipment, buildings, and sites	59009
for such buildings used directly in the operation of a police	59010
department, or the payment of salaries of permanent police	59011
personnel, including the payment of the police officer employers'	59012
contribution required under section 742.33 of the Revised Code, or	59013
the payment of the costs incurred by townships as a result of	59014
contracts made with other political subdivisions in order to	59015
obtain police protection, or the provision of ambulance or	59016

emergency medical services operated by a police department;	59017
(K) For the maintenance and operation of a county home or detention facility;	59018 59019
(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;	59020 59021 59022 59023
(M) For regional planning;	59024
(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	59025 59026 59027 59028 59029
(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;	59030 59031 59032
(P) For maintaining and operating sewage disposal plants and facilities;	59033 59034
(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;	59035 59036 59037 59038 59039 59040 59041
(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	59042 59043 59044 59045
(S) For the prevention, control, and abatement of air	59046

pollution;	59047
(T) For maintaining and operating cemeteries;	59048
(U) For providing ambulance service, emergency medical service, or both;	59049 59050
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	59051 59052
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	59053 59054 59055
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	59056 59057
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	59058 59059 59060
(Z) For the provision and maintenance of zoological park services and facilities, <u>or of a facility that encourages the study of and promotes the sciences</u> , as authorized under section 307.76 of the Revised Code;	59061 59062 59063 59064
(AA) For the maintenance and operation of a free public museum of art, science, or history;	59065 59066
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;	59067 59068
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	59069 59070 59071 59072 59073
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in	59074 59075

section 755.16 of the Revised Code; 59076

(EE) For the creation and operation of an office or joint 59077
office of economic development, for any economic development 59078
purpose of the office, and to otherwise provide for the 59079
establishment and operation of a program of economic development 59080
pursuant to sections 307.07 and 307.64 of the Revised Code; 59081

(FF) For the purpose of acquiring, establishing, 59082
constructing, improving, equipping, maintaining, or operating, or 59083
any combination of the foregoing, a township airport, landing 59084
field, or other air navigation facility pursuant to section 505.15 59085
of the Revised Code; 59086

(GG) For the payment of costs incurred by a township as a 59087
result of a contract made with a county pursuant to section 59088
505.263 of the Revised Code in order to pay all or any part of the 59089
cost of constructing, maintaining, repairing, or operating a water 59090
supply improvement; 59091

(HH) For a board of township trustees to acquire, other than 59092
by appropriation, an ownership interest in land, water, or 59093
wetlands, or to restore or maintain land, water, or wetlands in 59094
which the board has an ownership interest, not for purposes of 59095
recreation, but for the purposes of protecting and preserving the 59096
natural, scenic, open, or wooded condition of the land, water, or 59097
wetlands against modification or encroachment resulting from 59098
occupation, development, or other use, which may be styled as 59099
protecting or preserving "greenspace" in the resolution, notice of 59100
election, or ballot form; 59101

(II) For the support by a county of a crime victim assistance 59102
program that is provided and maintained by a county agency or a 59103
private, nonprofit corporation or association under section 307.62 59104
of the Revised Code; 59105

(JJ) For any or all of the purposes set forth in divisions 59106

(I) and (J) of this section. This division applies only to a township. 59107
59108

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties. 59109
59110
59111

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code; 59112
59113

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code; 59114
59115
59116

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county. 59117
59118
59119

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements; 59120
59121
59122
59123

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. 59124
59125

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township. 59126
59127

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements. 59128
59129
59130
59131
59132

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county. 59133
59134

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue 59135
59136

derived therefrom shall be applied. The existence in any other
division of this section of authority to levy a tax for any part
or all of the same purpose or purposes does not preclude the use
of such revenues for any part of the purpose or purposes of the
division under which the resolution is adopted.

The resolution shall specify the amount of the increase in
rate that it is necessary to levy, the purpose of that increase in
rate, and the number of years during which the increase in rate
shall be in effect, which may or may not include a levy upon the
duplicate of the current year. The number of years may be any
number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt
charges, the increased rate shall be for the life of the
indebtedness.

(2) When the additional rate is for any of the following, the
increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility
district, a district organized under section 2151.65 of the
Revised Code, or a combined district organized under sections
2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining
and operating schools, district detention facilities, forestry
camps, or other facilities, or any combination thereof,
established under section 2151.65 or 2152.41 of the Revised Code
or under both of those sections.

(3) When the additional rate is for either of the following,
the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or
(KK) of this section;

(b) For the maintenance and operation of a joint recreation

district. 59167

(4) When the increase is for the purpose or purposes set 59168
forth in division (D), (G), (H), (CC), or (PP) of this section, 59169
the tax levy may be for any specified number of years or for a 59170
continuing period of time, as set forth in the resolution. 59171

(5) When the additional rate is for the purpose described in 59172
division (Z) of this section, the increased rate shall be for any 59173
number of years not exceeding ten. 59174

A levy for one of the purposes set forth in division (G), 59175
(I), (J), or (U) of this section may be reduced pursuant to 59176
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 59177
the purposes set forth in division (G), (I), (J), or (U) of this 59178
section may also be terminated or permanently reduced by the 59179
taxing authority if it adopts a resolution stating that the 59180
continuance of the levy is unnecessary and the levy shall be 59181
terminated or that the millage is excessive and the levy shall be 59182
decreased by a designated amount. 59183

A resolution of a detention facility district, a district 59184
organized under section 2151.65 of the Revised Code, or a combined 59185
district organized under both sections 2151.65 and 2152.41 of the 59186
Revised Code may include both current expenses and other purposes, 59187
provided that the resolution shall apportion the annual rate of 59188
levy between the current expenses and the other purpose or 59189
purposes. The apportionment need not be the same for each year of 59190
the levy, but the respective portions of the rate actually levied 59191
each year for the current expenses and the other purpose or 59192
purposes shall be limited by the apportionment. 59193

Whenever a board of county commissioners, acting either as 59194
the taxing authority of its county or as the taxing authority of a 59195
sewer district or subdistrict created under Chapter 6117. of the 59196
Revised Code, by resolution declares it necessary to levy a tax in 59197

excess of the ten-mill limitation for the purpose of constructing, 59198
improving, or extending sewage disposal plants or sewage systems, 59199
the tax may be in effect for any number of years not exceeding 59200
twenty, and the proceeds of the tax, notwithstanding the general 59201
provisions of this section, may be used to pay debt charges on any 59202
obligations issued and outstanding on behalf of the subdivision 59203
for the purposes enumerated in this paragraph, provided that any 59204
such obligations have been specifically described in the 59205
resolution. 59206

The resolution shall go into immediate effect upon its 59207
passage, and no publication of the resolution is necessary other 59208
than that provided for in the notice of election. 59209

When the electors of a subdivision have approved a tax levy 59210
under this section, the taxing authority of the subdivision may 59211
anticipate a fraction of the proceeds of the levy and issue 59212
anticipation notes in accordance with section 5705.191 or 5705.193 59213
of the Revised Code. 59214

Sec. 5705.391. ~~(A) A board of education shall adopt as part 59215
of its annual appropriation measure a spending plan or in the case 59216
of an amendment or supplement to an appropriation measure, an 59217
amended spending plan, setting forth a schedule of expenses and 59218
expenditures of all appropriated funds by the school district for 59219
the fiscal year. A copy of the annual appropriation measure and 59220
any amendment or supplement to it and the spending plan or amended 59221
plan shall be submitted to the superintendent of public 59222
instruction and shall set forth all revenues available for 59223
appropriation by the district during the fiscal year and their 59224
sources; the nature and amount of expenses to be incurred by the 59225
district during such year, the outstanding and unpaid expenses on 59226
the date the appropriation measure, amendment, or supplement is 59227
adopted; the date or dates by which such expenses must be paid;~~ 59228

~~and such other information as the superintendent requires to 59229
enable the superintendent to determine whether during such year 59230
the district will incur any expenses that will impair its ability 59231
to operate its schools with the revenue available to it from 59232
existing revenue sources. The plan or amended plan shall be 59233
presented in such detail and form as the superintendent 59234
prescribes. 59235~~

~~(B)(A) No later than July 1, 1998, the department of 59236
education and the auditor of state shall jointly adopt rules 59237
requiring ~~school districts to include~~ boards of education to 59238
submit five-year projections of operational revenues and 59239
expenditures ~~in the spending plan required by this section.~~ The 59240
rules shall provide for the auditor of state or the department to 59241
examine the five-year projections and to determine whether any 59242
further fiscal analysis is needed to ascertain whether a district 59243
has the potential to incur a deficit during the first three years 59244
of the five-year period. 59245~~

~~The auditor of state or the department may conduct any 59246
further audits or analyses necessary to assess any district's 59247
fiscal condition. If further audits or analyses are conducted by 59248
the auditor of state, the auditor of state shall notify the 59249
department of the district's fiscal condition, and the department 59250
shall immediately notify the district of any potential to incur a 59251
deficit in the current fiscal year or of any strong indications 59252
that a deficit will be incurred in either of the ensuing two 59253
years. If such audits or analyses are conducted by the department, 59254
the department shall immediately notify the district and the 59255
auditor of state of such potential deficit or strong indications 59256
thereof. 59257~~

~~A district notified under this section shall take immediate 59258
steps to eliminate any deficit in the current fiscal year and 59259
shall begin to plan to avoid the projected future deficits. 59260~~

~~(C)~~(B) The state board of education, in accordance with 59261
sections 3319.31 and 3319.311 of the Revised Code, may limit, 59262
suspend, or revoke a license as defined under section 3319.31 of 59263
the Revised Code that has been issued to any school employee found 59264
to have willfully contributed erroneous, inaccurate, or incomplete 59265
data required for the submission of the ~~appropriation measure and~~ 59266
~~spending plan~~ five-year projection required by this section. 59267

Sec. 5707.031. (A) As used in this section: 59268

(1) "Qualifying dealer in intangibles" has the same meaning 59269
as in section 5733.45 of the Revised Code; 59270

(2) "Tax otherwise due" means the tax imposed on a qualifying 59271
dealer in intangibles under section 5707.03 and Chapter 5725. of 59272
the Revised Code reduced by the total amount of all other 59273
nonrefundable credits, if any, that the qualifying dealer in 59274
intangibles is entitled to claim. 59275

(B) Upon the issuance of a tax credit certificate by the Ohio 59276
venture capital authority under section 150.07 of the Revised 59277
Code, a credit may be claimed against the tax imposed on a 59278
qualifying dealer in intangibles under section 5707.03 and Chapter 59279
5725. of the Revised Code. The credit shall be claimed on a return 59280
due under section 5725.14 of the Revised Code after the 59281
certificate is issued by the authority. 59282

(C) If the qualifying dealer in intangibles elected a 59283
refundable credit under section 150.07 of the Revised Code and if 59284
the amount of the credit shown on the certificate does not exceed 59285
the tax otherwise due, then for the calendar year the qualifying 59286
dealer in intangibles shall claim a refundable credit equal to the 59287
amount of the credit shown on the certificate. 59288

(D) If the qualifying dealer in intangibles elected a 59289
refundable credit under section 150.07 of the Revised Code, and if 59290

the amount of the refundable credit shown on the certificate 59291
exceeds the tax otherwise due, then for the calendar year the 59292
qualifying dealer in intangibles shall claim a refundable credit 59293
equal to the sum of the following: 59294

(1) The amount, if any, of the tax otherwise due; 59295

(2) Seventy-five per cent of the difference between the 59296
amount of the refundable credit shown on the certificate and the 59297
tax otherwise due. 59298

(E) If the qualifying dealer in intangibles elected a 59299
nonrefundable credit under section 150.07 of the Revised Code and 59300
if the nonrefundable credit to which the qualifying dealer in 59301
intangibles would otherwise be entitled under this section for any 59302
calendar year is greater than the tax otherwise due, the excess 59303
shall be allowed as a nonrefundable credit in each of the ensuing 59304
ten calendar years, but the amount of any excess nonrefundable 59305
credit allowed in the ensuing calendar year shall be deducted from 59306
the balance carried forward to the next calendar year. 59307

Sec. 5711.16. (A) As used in this section, ~~manufacturer:~~ 59308

(1) "Manufacturer" means a person who purchases, receives, or 59309
holds personal property for the purpose of adding to its value by 59310
manufacturing, refining, rectifying, or combining different 59311
materials with a view of making a gain or profit by so doing. 59312

(2) "Manufacturing equipment" means machinery and equipment, 59313
and tools and implements, including any associated patterns, jigs, 59314
dies, drawings, and business fixtures, used at a manufacturing 59315
facility by a manufacturer, and includes any such property leased 59316
to the manufacturer. "Manufacturing equipment" excludes property 59317
used for general office purposes. 59318

(3) "Manufacturing facility" means a facility or portion of a 59319
facility used for manufacturing, mining, refining, rectifying, or 59320

combining different materials with a view of making a gain or 59321
profit by so doing. "Manufacturing facility" includes that portion 59322
of a facility used to store or transport raw materials, 59323
work-in-process, or finished goods inventory, for packaging, for 59324
research, or to test for quality control, as long as 59325
manufacturing, mining, refining, rectifying, or combining is also 59326
performed at the facility. "Manufacturing facility" does not 59327
include any portion of a facility used primarily for making retail 59328
sales. 59329

(4) "Manufacturing inventory" means all articles purchased, 59330
received, or otherwise held for the purpose of being used, in 59331
whole or in part, in manufacturing, mining, combining, rectifying, 59332
or refining, and of all articles that were at any time 59333
manufactured or changed in any way by a manufacturer, either by 59334
mining, combining, rectifying, refining, or adding thereto. 59335

(B) When a manufacturer is required to return a statement of 59336
the amount of the manufacturer's personal property used in 59337
business, the manufacturer shall include the average value, 59338
estimated as provided in this section, of ~~all articles purchased,~~ 59339
~~received, or otherwise held for the purpose of being used, in~~ 59340
~~whole or in part, in manufacturing, combining, rectifying, or~~ 59341
~~refining, and of all articles that were at any time manufactured~~ 59342
~~or changed in any way by the manufacturer, either by combining,~~ 59343
~~rectifying, refining, or adding thereto,~~ manufacturing inventory 59344
that the manufacturer has had on hand during the year ending on 59345
the day the property is listed for taxation annually, or the part 59346
of such year during which the manufacturer was engaged in 59347
business. The manufacturer shall separately list finished products 59348
not kept or stored at the place of manufacture or at a warehouse 59349
in the same county. 59350

The average value of such property shall be ascertained by 59351
taking the value of all property subject to be listed on the 59352

average basis, owned by the manufacturer on the last business day 59353
of each month the manufacturer was engaged in business during the 59354
year, adding the monthly values together, and dividing the result 59355
by the number of months the manufacturer was engaged in such 59356
business during the year. The result shall be the average value to 59357
be listed. 59358

~~(B)(C)~~ A manufacturer also shall list all ~~engines and~~ 59359
~~machinery, and tools and implements, of every kind used, or~~ 59360
~~designed to be used, in refining and manufacturing, and equipment~~ 59361
owned or used by the manufacturer. 59362

Sec. 5711.21. (A) In assessing taxable property the assessor 59363
shall be governed by the rules of assessment prescribed by 59364
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 59365
taxable property is required to be assessed at its true value in 59366
money or at any percentage of true value, the assessor shall be 59367
guided by the statements contained in the taxpayer's return and 59368
such other rules and evidence as will enable the assessor to 59369
arrive at such true value. Wherever the income yield of taxable 59370
property is required to be assessed, and the method of determining 59371
between income and return or distribution of principal, or that of 59372
allocating expenses in determining net income, or that of 59373
ascertaining the source from which partial distributions of income 59374
have been made is not expressly prescribed by sections 5711.01 to 59375
5711.36 of the Revised Code, the assessor shall be guided by the 59376
statements contained in the taxpayer's return and such general 59377
rules as the tax commissioner adopts to enable the assessor to 59378
make such determination. 59379

(B) ~~The~~ For tax years before tax year 2009, the true value of 59380
the boilers, machinery, equipment, and any personal property used 59381
to generate or distribute the electricity shall be the sum of the 59382
following: 59383

(1) The true value of the property as it would be determined 59384
under this chapter if none of the electricity were distributed to 59385
others multiplied by the per cent of the electricity generated in 59386
the preceding calendar year that was used by the person who 59387
generated it; plus 59388

(2) The true value of the property that is production 59389
equipment as it would be determined for an electric company under 59390
section 5727.11 of the Revised Code multiplied by the per cent of 59391
the electricity generated in the preceding calendar year that was 59392
not used by the person who generated it; plus 59393

(3) The true value of the property that is not production 59394
equipment as it would be determined for an electric company under 59395
section 5727.11 of the Revised Code multiplied by the per cent of 59396
the electricity generated in the preceding calendar year that was 59397
not used by the person who generated it. 59398

(C) ~~The~~ For tax years before tax year 2010, the true value of 59399
personal property leased to a public utility or interexchange 59400
telecommunications company as defined in section 5727.01 of the 59401
Revised Code and used by the utility or interexchange 59402
telecommunications company directly in the rendition of a public 59403
utility service as defined in division (P) of section 5739.01 of 59404
the Revised Code shall be determined in the same manner that the 59405
true value of such property is determined under section 5727.11 of 59406
the Revised Code if owned by the public utility or interexchange 59407
telecommunications company. 59408

Sec. 5711.22. (A) Deposits not taxed at the source shall be 59409
listed and assessed at their amount in dollars on the day they are 59410
required to be listed. Moneys shall be listed and assessed at the 59411
amount thereof in dollars on hand on the day that they are 59412
required to be listed. In listing investments, the amount of the 59413
income yield of each for the calendar year next preceding the date 59414

of listing shall, except as otherwise provided in this chapter, be 59415
stated in dollars and cents and the assessment thereof shall be at 59416
the amount of such income yield; but any property defined as 59417
investments in either division (A) or (B) of section 5701.06 of 59418
the Revised Code that has not been outstanding for the full 59419
calendar year next preceding the date of listing, except shares of 59420
stock of like kind as other shares of the same corporation 59421
outstanding for the full calendar year next preceding the date of 59422
listing, or which has yielded no income during such calendar year 59423
shall be listed and assessed as unproductive investments, at their 59424
true value in money on the day that such investments are required 59425
to be listed. 59426

Credits and other taxable intangibles shall be listed and 59427
assessed at their true value in money on the day as of which the 59428
same are required to be listed. 59429

Shares of stock of a bank holding company, as defined in 59430
Title 12 U.S.C.A., section 1841, that are required to be listed 59431
for taxation under this division and upon which dividends were 59432
paid during the year of their issuance, which dividends are 59433
subject to taxation under the provisions of Chapter 5747. of the 59434
Revised Code, shall be exempt from the intangibles tax for the 59435
year immediately succeeding their issuance. If such shares bear 59436
dividends the first calendar year after their issuance, which 59437
dividends are subject to taxation under the provisions of Chapter 59438
5747. of the Revised Code, it shall be deemed that the 59439
nondelinquent intangible property tax pursuant to division (A) of 59440
section 5707.04 of the Revised Code was paid on those dividends 59441
paid that first calendar year after the issuance of the shares. 59442

~~(B)(1) Boilers~~ For tax years before tax year 2009, boilers, 59443
machinery, equipment, and personal property the true value of 59444
which is determined under division (B) of section 5711.21 of the 59445
Revised Code shall be listed and assessed at an amount equal to 59446

the sum of the products determined under divisions (B)(1)~~(a)~~, 59447
~~(b)(2)~~, and ~~(e)(3)~~ of this section~~;~~: 59448

~~(a)(1)~~ Multiply the portion of the true value determined 59449
under division (B)(1) of section 5711.21 of the Revised Code by 59450
the assessment rate for the tax year in division ~~(F)~~(G) of this 59451
section; 59452

~~(b)(2)~~ Multiply the portion of the true value determined 59453
under division (B)(2) of section 5711.21 of the Revised Code by 59454
the assessment rate in section 5727.111 of the Revised Code that 59455
is applicable to the production equipment of an electric company; 59456

~~(e)(3)~~ Multiply the portion of the true value determined 59457
under division (B)(3) of section 5711.21 of the Revised Code by 59458
the assessment rate in section 5727.111 of the Revised Code that 59459
is applicable to the property of an electric company that is not 59460
production equipment. 59461

~~(2) Personal~~ (C) For tax years before tax year 2006, personal 59462
property leased to a public utility or interexchange 59463
telecommunications company as defined in section 5727.01 of the 59464
Revised Code and used directly in the rendition of a public 59465
utility service as defined in division (P) of section 5739.01 of 59466
the Revised Code shall be listed and assessed at the same 59467
percentage of true value in money that such property is required 59468
to be assessed by section 5727.111 of the Revised Code if owned by 59469
the public utility or interexchange telecommunications company. 59470

~~(C)(D)(1)~~ Merchandise or an agricultural product shipped from 59471
outside this state and held in this state in a warehouse or a 59472
place of storage without further manufacturing or processing and 59473
for storage only and for shipment outside this state, but that ~~is~~ 59474
~~taxable because it~~ does not qualify as "not used in business in 59475
this state" under division (B)(1) or (2) of section 5701.08 of the 59476
Revised Code, ~~shall be listed and assessed at a rate of~~ 59477

~~twenty five one hundredths of its true value in money until 59478
reduced in accordance with the following schedule: 59479~~

~~(a) For any year, subtract five one hundredths from the rate 59480
at which such property was required to be listed and assessed in 59481
the preceding year, if the total statewide collection of all real 59482
and tangible personal property taxes for the second preceding year 59483
exceeded the total statewide collection of all real and tangible 59484
personal property taxes for the third preceding year by more than 59485
the greater of four per cent or the rate of increase from the 59486
third to the second preceding years in the average consumer price 59487
index (all urban consumers, all items) prepared by the bureau of 59488
labor statistics of the United States department of labor; 59489~~

~~(b) If no reduction in the assessment rate is made for a 59490
year, the rate is the same as for the preceding year. 59491~~

~~(2) Each year until the year the assessment rate equals zero, 59492
the tax commissioner shall determine the assessment rate required 59493
under this division and shall notify all county auditors of that 59494
rate. 59495~~

~~(3) Notwithstanding provisions to the contrary in division 59496
(B) of section 5701.08 of the Revised Code, during and after the 59497
year for which the assessment rate as calculated under this 59498
division equals zero, any merchandise or agricultural product 59499
shipped from outside this state and held in this state in any 59500
warehouse or place of storage, whether public or private, without 59501
further manufacturing or processing and for storage only and for 59502
shipment outside this state to any person for any purpose is 59503
nevertheless not used in business in this state for property tax 59504
purposes. 59505~~

~~(D)(1)(2) Merchandise or an agricultural product owned by a 59506
qualified out-of-state person shipped from outside this state and 59507
held in this state in a public warehouse without further 59508~~

manufacturing or processing and for temporary storage only and for 59509
shipment inside this state, but that ~~is taxable because it~~ does 59510
not qualify as "not used in business in this state" under division 59511
(B)(1) or (2) of section 5701.08 of the Revised Code, ~~shall be~~ 59512
~~listed and assessed at a rate of twenty five one hundredths of its~~ 59513
~~true value in money until reduced in accordance with the following~~ 59514
~~schedule:~~ 59515

~~(a) For any year, subtract five one hundredths from the rate 59516
at which such property was required to be listed and assessed in 59517
the preceding year, if the total statewide collection of all real 59518
and tangible personal property taxes for the second preceding year 59519
exceeded the total statewide collection of all real and tangible 59520
personal property taxes for the third preceding year by more than 59521
the greater of four per cent or the rate of increase from the 59522
third to the second preceding years in the average consumer price 59523
index (all urban consumers, all items) prepared by the bureau of 59524
labor statistics of the United States department of labor;~~ 59525

~~(b) If no reduction in the assessment rate is made for a 59526
year, the rate is the same as for the preceding year.~~ 59527

~~(2) Each year until the year the assessment rate equals zero, 59528
the tax commissioner shall determine the assessment rate required 59529
under this division and shall notify all county auditors of that 59530
rate.~~ 59531

~~(3) Notwithstanding provisions to the contrary in division 59532
(B) of section 5701.08 of the Revised Code, during and after the 59533
year for which the assessment rate as calculated under this 59534
division equals zero, any merchandise or agricultural product 59535
described in division (D)(1) of this section is nevertheless not 59536
used in business in this state for property tax purposes. 59537~~

~~(4)(3) As used in division (D)(2) of this section: 59538~~

~~(a) "Qualified out-of-state person" means a person that does 59539~~

not own, lease, or use property, other than merchandise or an
agricultural product described in this division, in this state,
and does not have employees, agents, or representatives in this
state;

(b) "Public warehouse" means a warehouse in this state that
is not subject to the control of or under the supervision of the
owner of the merchandise or agricultural product stored in it, or
staffed by the owner's employees, and from which the property is
to be shipped inside this state.

(E) Personal property valued pursuant to section 5711.15 of
the Revised Code and personal property required to be listed on
the average basis by division (A) of section 5711.16 of the
Revised Code, except property described in division ~~(C)~~ or (D) of
this section, business fixtures, and furniture not held for sale
in the course of business, shall be listed and assessed at ~~the~~
~~rate of twenty five per cent of its true value in money until~~
~~reduced to zero in accordance with the following schedule:~~

~~(1) Beginning in tax year 2002 and for each of tax years 2003
and 2004, subtract one percentage point from the rate at which the
property was required to be listed and assessed in the preceding
year, if the total statewide collection of tangible personal
property taxes for the second preceding year exceeded the total
statewide collection of tangible personal property taxes for the
third preceding year. If no reduction in the assessment rate is
made for a year, the rate is the same as for the preceding year.~~

~~(2) In tax years 2005 and 2006, the assessment rate shall be
reduced by two percentage points, if the total statewide
collection of tangible personal property taxes for the second
preceding year exceeded the total statewide collection of tangible
personal property taxes for the third preceding year. If no
reduction in the assessment rate is made for a year, the rate is~~

~~the same as for the preceding year.~~ 59571

~~(3) For tax year 2007 and each tax year thereafter, the assessment rate shall be reduced by two percentage points. During and after the tax year that the assessment rate equals zero, the property described in division (E) of this section shall not be listed for taxation.~~ 59572
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~~Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~ 59577
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59580

~~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 twenty-three per cent of its true value in money for tax year 2005 and at the percentage of such true value specified in division (G) of this section for tax year 2006 and each tax year thereafter.~~ 59581
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~~(F) All manufacturing equipment as defined in section 5711.16 of the Revised Code shall be listed and assessed at the following percentage of its true value in money:~~ 59589
59590
59591

~~(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, zero per cent of true value;~~ 59592
59593
59594
59595

~~(2) For all other such property, at the percentage of true value specified in division (G) of this section for tax year 2005 and each tax year thereafter. 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.~~ 59596
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~~(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~~ following percentages of its true value in money:

(1) For tax year 2005, twenty-five per cent of true value;

(2) For tax year 2006, eighteen and three-fourths per cent of true value;

(3) For tax year 2007, twelve and one-half per cent of true value;

(4) For tax year 2008, six and one-fourth per cent of true value;

(5) For tax year 2009 and each tax year thereafter, zero per cent of true value.

(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.

(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.

Sec. 5711.28. Whenever the assessor imposes a penalty prescribed by section 5711.27 or 5725.17 of the Revised Code, the assessor shall send notice of such penalty assessment to the taxpayer by mail. If the notice also reflects the assessment of any property not listed in or omitted from a return, or the assessment of any item or class of taxable property listed in a return by the taxpayer in excess of the value or amount thereof as

so listed, or without allowing a claim duly made for deduction 59632
from the net book value of accounts receivable, or depreciated 59633
book value of personal property used in business, so listed, and 59634
the taxpayer objects to one or more of such corrections in 59635
addition to the penalty, the taxpayer shall proceed as prescribed 59636
by section 5711.31 of the Revised Code, but if no such correction 59637
is reflected in the notice, or if the taxpayer does not object to 59638
any such correction made, ~~he~~ the taxpayer shall proceed as 59639
prescribed herein. 59640

Within sixty days after the mailing of the notice of a 59641
penalty assessment prescribed by this section, the taxpayer may 59642
file with the tax commissioner, in person or by certified mail, a 59643
petition for abatement of such penalty assessment. If the petition 59644
is filed by certified mail, the date of the United States postmark 59645
placed on the sender's receipt by the postal employee to whom the 59646
petition is presented shall be treated as the date of filing. The 59647
petition shall have attached thereto and incorporated therein by 59648
reference a true copy of the notice of assessment complained of, 59649
but the failure to attach a copy of such notice and incorporate it 59650
by reference does not invalidate the petition. The petition shall 59651
also indicate that the taxpayer's only objection is to the 59652
assessed penalty and the reason for such objection. 59653

Upon the filing of a petition for abatement of penalty, the 59654
commissioner shall notify the treasurer of state or the auditor 59655
and treasurer of each county having any part of the penalty 59656
assessment entered on the tax list or duplicate. The commissioner 59657
shall review the petition without the need for hearing. If it 59658
appears that the failure of the taxpayer to timely return or list 59659
as required under this chapter, or to file a complying report and 59660
pay tax under Chapter 5725. of the Revised Code, whichever the 59661
case may be, was due to reasonable cause and not willful neglect, 59662
the commissioner may abate in whole or in part the penalty 59663

assessment. The commissioner shall transmit a certificate of the 59664
commissioner's determination to the taxpayer, and if no appeal is 59665
taken therefrom as provided by law, or upon the final 59666
determination of an appeal which may be taken, the commissioner 59667
shall notify the treasurer of state or the proper county auditor 59668
of such final determination. If the final determination orders 59669
abatement of the penalty assessment, the notification may be in 59670
the form of an amended assessment certificate. Upon receipt of the 59671
notification, the treasurer of state or county auditor shall make 59672
any corrections to the treasurer's or auditor's records and tax 59673
lists and duplicates required in accordance therewith and proceed 59674
as prescribed by section 5711.32 or 5725.22 of the Revised Code. 59675

The decision of the commissioner shall be final with respect 59676
to the percentage of penalty, if any, the commissioner finds 59677
appropriate ~~for the failure to return timely or list the property,~~ 59678
but neither the commissioner's decision nor a final judgment of 59679
the board of tax appeals or any court to which such final 59680
determination may be appealed shall finalize the assessment of 59681
such property. 59682

Sec. 5715.24. (A) The tax commissioner, annually, shall 59683
determine whether the real property and the various classes 59684
thereof in the several counties, municipal corporations, and 59685
taxing districts which have completed a sexennial reappraisal in 59686
the current year and which will have the new taxable values placed 59687
on the tax list and duplicate have been assessed as required by 59688
law, and whether the values set forth in the agricultural land tax 59689
list in such taxing districts correctly reflect the true and 59690
agricultural use values of the lands contained therein. The 59691
determination shall be made prior to the first Monday in August 59692
unless the commissioner, for good cause, extends the date. If the 59693
commissioner finds that the real property or any class thereof in 59694
any such county, municipal corporation, or taxing district, as 59695

reported to it by the several county auditors of the counties that 59696
have completed such reappraisal is not listed for taxation or 59697
recorded on the agricultural land tax list in accordance 59698
therewith, ~~he~~ the commissioner shall increase or decrease the 59699
appropriate aggregate value of the real property or any class 59700
thereof in any such county, township, municipal corporation, 59701
taxing district, or ward or division of a municipal corporation, 59702
by a per cent or amount that will cause such property to be 59703
correctly valued on the agricultural land tax list and to be 59704
correctly assessed on the tax list at its taxable value so that 59705
every class of real property shall be listed and valued for 59706
taxation and valued for purposes of sections 5713.33 to 5713.35 of 59707
the Revised Code as required by law. In determining whether a 59708
class of real property has been assessed at its correct taxable 59709
value and in determining any per cent or amount by which the 59710
aggregate value of the class from a prior year shall be increased 59711
or decreased to be correctly assessed, the commissioner shall 59712
consider only the aggregate values of property that existed in the 59713
prior year and that is to be taxed in the current year. In 59714
addition to any other adjustments the commissioner considers 59715
necessary to comply with this requirement, the value of new 59716
construction shall not be regarded as an increase in such 59717
aggregate value from the prior year, and the value of property 59718
destroyed or demolished since the prior year shall be deducted 59719
from the aggregate value of that class for the prior year. 59720

In implementing any increase or decrease in valuation of real 59721
property ordered by the commissioner pursuant to this section, the 59722
county auditor shall, when practicable, increase or decrease the 59723
taxable valuation of parcels in accordance with actual changes in 59724
valuation of real property which occur in different subdivisions, 59725
neighborhoods, or among classes of real property in the county. 59726

(B) Division (A) of this section also applies to a county in 59727

the third calendar year following the year in which a sexennial
reappraisal is completed. 59728
59729

Sec. 5719.041. If the payment of a general personal property 59730
or classified property tax is not made on or before the last day 59731
prescribed by section 5719.03 or 5719.031 of the Revised Code, an 59732
interest charge shall begin to accrue and shall continue until all 59733
charges are paid, except that no interest charge shall accrue for 59734
or in the month in which such payment was due under such section 59735
or under the circumstances and for the period described in 59736
division (A)(2) of section 5711.33 of the Revised Code or upon 59737
delinquent taxes that are the subject of a delinquent tax contract 59738
entered into pursuant to section 5719.05 of the Revised Code. 59739

The interest charge shall accrue against the balance of such 59740
taxes and any penalty thereon outstanding that remains unpaid on 59741
the last day of each month and shall be at the rate per calendar 59742
month, rounded to the nearest one-hundredth of one per cent, equal 59743
to one-twelfth of the ~~rate per annum prescribed by federal~~ 59744
short-term rate determined by the tax commissioner under section 59745
5703.47 of the Revised Code for the calendar year that includes 59746
the month for which the charge accrues. The charge is payable in 59747
addition to the unpaid balance of taxes and penalties on the day 59748
the charge accrues, unless the entire balance is sooner paid. 59749

If a delinquent tax contract becomes void, interest shall be 59750
charged on the day on which the contract becomes void in the 59751
amount that would have been charged had the delinquent tax 59752
contract not been entered into and shall thereafter accrue as 59753
provided in this section. 59754

Interest shall be allowed, at the same rate per calendar 59755
month as is applicable that month for underpayments, on any 59756
overpayment of the tax charged on a general personal property or a 59757
classified property tax duplicate, from the first day of the month 59758

following the date of the overpayment until the last day of the 59759
month preceding the date of the refund of the overpayment. The 59760
interest shall be paid from the fund or funds to which the 59761
overpayment was credited. 59762

When the county treasurer makes the treasurer's annual 59763
settlement with the county auditor under division (D) of section 59764
321.24 of the Revised Code, the treasurer shall certify to the 59765
auditor a list of all entries on the cumulative delinquent tax 59766
duplicate that are at that time in the process of being paid in 59767
installments under a valid delinquent tax contract. For each entry 59768
that appears on the duplicate that is not on the certified list, 59769
the auditor shall compute the full amount of interest charges 59770
which have accrued against such entry since the preceding such 59771
settlement was made and shall include such charges through the 59772
last day of the month preceding the current settlement. The 59773
auditor shall include such amounts on the tax list and duplicates 59774
prepared by the auditor as prescribed in section 5719.04 of the 59775
Revised Code unless the interest is less than one dollar, in which 59776
case it shall not be added to such tax lists and duplicates. 59777

Before the county treasurer accepts any payment of taxes 59778
against which there are accrued interest charges that do not 59779
appear on the delinquent tax duplicate, the treasurer shall notify 59780
the auditor who shall issue a certificate to the treasurer showing 59781
the amount of such interest charges, and the treasurer shall 59782
collect the amount shown on such certificate at the time of 59783
accepting payment of such taxes. If the amount of such interest 59784
charges is less than one dollar, no such certificate shall be 59785
issued. In the case of delinquent personal property taxes, the 59786
interest shown on such certificate shall be credited to the 59787
undivided general tax fund, and distributed in the same manner as 59788
the delinquent taxes upon which the interest charges accrued. In 59789
the case of delinquent classified property taxes, the interest 59790

shown on such certificate shall be credited to the county library 59791
and local government support fund and distributed in accordance 59792
with section 5747.48 of the Revised Code. When the payment of 59793
delinquent taxes is credited on the tax duplicate the treasurer 59794
shall make a separate notation thereon indicating the amount 59795
collected and the index number of the auditor's certificate herein 59796
prescribed. 59797

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the 59798
Revised Code: 59799

(A) "Financial institution" means: 59800

(1) A national bank organized and existing as a national bank 59801
association pursuant to the "National Bank Act," 12 U.S.C. 21; 59802

(2) A federal savings association or federal savings bank 59803
that is chartered under 12 U.S.C. 1464; 59804

(3) A bank, banking association, trust company, savings and 59805
loan association, savings bank, or other banking institution that 59806
is incorporated or organized under the laws of any state; 59807

(4) Any corporation organized under 12 U.S.C. 611 to 631; 59808

(5) Any agency or branch of a foreign depository as defined 59809
in 12 U.S.C. 3101; 59810

(6) A company licensed as a small business investment company 59811
under the "Small Business Investment Act of 1958," 72 Stat. 689, 59812
15 U.S.C. 661, as amended; or 59813

(7) A company chartered under the "Farm Credit Act of 1933," 59814
48 Stat. 257, 12 U.S.C. 1131(d), as amended. 59815

Corporations or institutions organized under the "Federal 59816
Farm Loan Act" and amendments thereto, insurance companies, and 59817
credit unions shall not be considered financial institutions or 59818
dealers in intangibles within the meaning of such sections. 59819

(B) "Dealer in intangibles" includes every person who keeps 59820
an office or other place of business in this state and engages at 59821
such office or other place in ~~the~~ a business that consists 59822
primarily of lending money, or discounting, buying, or selling 59823
bills of exchange, drafts, acceptances, notes, mortgages, or other 59824
evidences of indebtedness, or of buying or selling bonds, stocks, 59825
or other investment securities, whether on the person's own 59826
account with a view to profit, or as agent or broker for others, 59827
with a view to profit or personal earnings. Dealer in intangibles 59828
excludes institutions used exclusively for charitable purposes, 59829
insurance companies, and financial institutions. ~~Neither casual~~ 59830
~~nor isolated transactions of any of the kinds enumerated in this~~ 59831
~~division of this section, nor the~~ The investment of funds as 59832
personal accumulations or as business reserves or working capital 59833
does not constitute engaging in a business within the meaning of 59834
this division ~~of this section~~; but a person who, having engaged in 59835
~~the~~ a business that consists primarily of lending money, or 59836
discounting, buying, or selling bills of exchange, drafts, 59837
acceptances, notes, mortgages, or other evidences of indebtedness 59838
on the person's own account, remains in business primarily for the 59839
purpose of realizing upon the assets of ~~such~~ the business is 59840
deemed a dealer in intangibles, though not presently engaged in a 59841
business that consists primarily of lending money or discounting 59842
or buying such securities. 59843

(C) "Insurance company" includes every corporation, 59844
association, and society engaged in the business of insurance of 59845
any character, or engaged in the business of entering into 59846
contracts substantially amounting to insurance of any character, 59847
or of indemnifying or guaranteeing against loss or damage, or 59848
acting as surety on bonds or undertakings. "Insurance company" 59849
also includes any health insuring corporation as defined in 59850
section 1751.01 of the Revised Code. 59851

(D) "Domestic insurance company" includes every insurance 59852
company organized and existing under the laws of this state, and 59853
every unincorporated association and society formed under the laws 59854
of this state for the purpose of engaging in said business, except 59855
a company, association, or society that is an insurance holding 59856
company affiliate controlled by a nonresident affiliate and has 59857
risks in this state formerly written by its foreign affiliates in 59858
a total amount exceeding the risks outstanding on the taxpayer's 59859
latest annual report that arise from business initially written by 59860
it in this state; and excludes every foreign insurance company. As 59861
used in this division, terms defined in section 3901.32 of the 59862
Revised Code have the same meanings given to them in that section. 59863

(E) "Foreign insurance company" includes every insurance 59864
company organized or existing under the laws of any other state, 59865
territory, country, or the United States and every insurance 59866
holding company affiliate excepted under division (D) of this 59867
section. 59868

Sec. 5725.19. (A) As used in this section, "tax otherwise 59869
due" means the tax imposed on a domestic insurance company under 59870
section 5725.18 of the Revised Code reduced by the total amount of 59871
all other nonrefundable credits, if any, that the domestic 59872
insurance company is entitled to claim. 59873

(B) Upon the issuance of a tax credit certificate by the Ohio 59874
venture capital authority under section 150.07 of the Revised 59875
Code, a credit may be claimed against the tax imposed on a 59876
domestic insurance company under section 5725.18 of the Revised 59877
Code. The credit shall be claimed in the calendar year specified 59878
in the certificate issued by the authority. 59879

(C) If the company elected a refundable credit under section 59880
150.07 of the Revised Code and if the amount of the credit shown 59881
on the certificate does not exceed the tax otherwise due, then for 59882

the calendar year the company shall claim a refundable credit 59883
equal to the amount of the credit shown on the certificate. 59884

(D) If the company elected a refundable credit under section 59885
150.07 of the Revised Code, and the amount of the credit shown on 59886
the certificate exceeds the tax otherwise due ~~under section~~ 59887
~~5725.18 of the Revised Code, then for the calendar year the~~ 59888
~~company may receive a refund equal to seventy five per cent of~~ 59889
~~such excess. It shall claim a refundable credit equal to the sum~~ 59890
~~of the following:~~ 59891

(1) The amount, if any, of the tax otherwise due; 59892

(2) Seventy-five per cent of the difference between the 59893
amount of the refundable credit shown on the certificate and the 59894
tax otherwise due. 59895

(E) If the company elected a nonrefundable credit, the amount 59896
of the credit shown on the certificate shall not exceed the amount 59897
of tax otherwise due. If the company elected a nonrefundable 59898
credit and the credit to which the company would otherwise be 59899
entitled under this section for any calendar year is greater than 59900
the tax otherwise due ~~under section 5725.18 of the Revised Code,~~ 59901
the excess shall be allowed as a nonrefundable credit in each of 59902
the ensuing ten calendar years, but the amount of any excess 59903
credit allowed in the ensuing calendar year shall be deducted from 59904
the balance carried forward to the next calendar year. 59905

Sec. 5725.32. A refundable credit granted by the tax credit 59906
authority under section 122.17 of the Revised Code may be claimed 59907
against the tax imposed by section 5725.18 of the Revised Code. 59908

Sec. 5727.01. As used in this chapter: 59909

(A) "Public utility" means each person referred to as a 59910
telephone company, telegraph company, electric company, natural 59911

gas company, pipe-line company, water-works company, water
transportation company, heating company, rural electric company,
railroad company, or combined company.

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(B) "Gross receipts" means the entire receipts for business
done by any person from operations as a public utility, or
incidental thereto, or in connection therewith, including any
receipts received under Chapter 4928. of the Revised Code. The
gross receipts for business done by an incorporated company
engaged in operation as a public utility includes the entire
receipts for business done by such company under the exercise of
its corporate powers, whether from the operation as a public
utility or from any other business.

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(C) "Rural electric company" means any nonprofit corporation,
organization, association, or cooperative engaged in the business
of supplying electricity to its members or persons owning an
interest therein in an area the major portion of which is rural.

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(D) Any person:

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(1) Is a telegraph company when engaged in the business of
transmitting telegraphic messages to, from, through, or in this
state;

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(2) Is a telephone company when primarily engaged in the
business of providing local exchange telephone service, excluding
cellular radio service, in this state;

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(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;

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(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

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supplier as defined in section 4929.01 of the Revised Code; 59942

(5) Is a pipe-line company when engaged in the business of 59943
transporting natural gas, oil, or coal or its derivatives through 59944
pipes or tubing, either wholly or partially within this state; 59945

(6) Is a water-works company when engaged in the business of 59946
supplying water through pipes or tubing, or in a similar manner, 59947
to consumers within this state; 59948

(7) Is a water transportation company when engaged in the 59949
transportation of passengers or property, by boat or other 59950
watercraft, over any waterway, whether natural or artificial, from 59951
one point within this state to another point within this state, or 59952
between points within this state and points without this state; 59953

(8) Is a heating company when engaged in the business of 59954
supplying water, steam, or air through pipes or tubing to 59955
consumers within this state for heating purposes; 59956

(9) Is a railroad company when engaged in the business of 59957
owning or operating a railroad either wholly or partially within 59958
this state on rights-of-way acquired and held exclusively by such 59959
company, or otherwise, and includes a passenger, street, suburban, 59960
or interurban railroad company. 59961

As used in division (D)(2) of this section, "local exchange 59962
telephone service" means making available or furnishing access and 59963
a dial tone to all persons within a local calling area for use in 59964
originating and receiving voice grade communications over a 59965
switched network operated by the provider of the service within 59966
the area and for gaining access to other telecommunication 59967
services. 59968

(E) "Taxable property" means the property required by section 59969
5727.06 of the Revised Code to be assessed by the tax 59970
commissioner, but does not include either of the following: 59971

(1) An item of tangible personal property that for the period 59972
subsequent to the effective date of an air, water, or noise 59973
pollution control certificate and continuing so long as the 59974
certificate is in force, has been certified as part of the 59975
pollution control facility with respect to which the certificate 59976
has been issued; 59977

(2) An item of tangible personal property that during the 59978
construction of a plant or facility and until the item is first 59979
capable of operation, whether actually used in operation or not, 59980
is incorporated in or being held exclusively for incorporation in 59981
that plant or facility. 59982

(F) "Taxing district" means a municipal corporation of 59983
township, or part thereof, in which the aggregate rate of taxation 59984
is uniform. 59985

(G) "Telecommunications service" has the same meaning as in 59986
division (AA) of section 5739.01 of the Revised Code. 59987

(H) "Interexchange telecommunications company" means a person 59988
that is engaged in the business of transmitting telephonic 59989
messages to, from, through, or in this state, but that is not a 59990
telephone company. 59991

(I) "Sale and leaseback transaction" means a transaction in 59992
which a public utility or interexchange telecommunications company 59993
sells any tangible personal property to a person other than a 59994
public utility or interexchange telecommunications company and 59995
leases that property back from the buyer. 59996

(J) "Production equipment" means all taxable steam, nuclear, 59997
hydraulic, and other production plant equipment used to generate 59998
electricity. For tax years prior to 2001, "production equipment" 59999
includes taxable station equipment that is located at a production 60000
plant. 60001

(K) "Tax year" means the year for which property or gross receipts are subject to assessment under this chapter. This division does not limit the tax commissioner's ability to assess and value property or gross receipts outside the tax year.

(L) "Combined company" means any person engaged in the activity of an electric company or rural electric company that is also engaged in the activity of a heating company or a natural gas company, or any combination thereof.

(M) "Public utility property lessor" means any person that leases to a public utility, other than a railroad or water transportation company, or to an interexchange telecommunications company property that would be taxable property if the public utility or interexchange telecommunications company owned the property. A public utility property lessor is subject to this chapter only for the purposes of reporting and paying tax on taxable property it leases to a public utility or interexchange telecommunications company.

Sec. 5727.02. As used in this chapter, "public utility," "electric company," "natural gas company," "pipe-line company," "water-works company," "water transportation company" or "heating company" does not include any of the following:

(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.

(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 60032
as an "electric company" and a "public utility" for purposes of 60033
this chapter solely to the extent required by section 5727.031 of 60034
the Revised Code. 60035

(B) Any person that supplies electricity, natural gas, water, 60036
water transportation, steam, or air to its tenants, whether for a 60037
separate charge or otherwise; 60038

(C) Any person whose primary business in this state consists 60039
of producing, refining, or marketing petroleum or its products. 60040

(D) Any person whose primary business in this state consists 60041
of producing or gathering natural gas rather than supplying or 60042
distributing natural gas to consumers. 60043

Sec. 5727.031. (A) For tax year 2006 and each tax year 60044
thereafter, a person that is engaged in some other primary 60045
business to which the supplying of electricity to others is 60046
incidental shall file a report under section 5727.08 of the 60047
Revised Code as an electric company but shall only report therein 60048
as taxable property the amounts required in divisions (B) and (C) 60049
of this section. All time limits and other procedural requirements 60050
of this chapter for the reporting and assessment of property of 60051
electric companies apply to persons required to file a report 60052
under this section. 60053

(B) A person subject to this section shall report the true 60054
value of the boilers, machinery, equipment, and any personal 60055
property used to supply electricity to others, which shall be the 60056
sum of the following: 60057

(1) The true value of the property that is production 60058
equipment as it would be determined for an electric company under 60059
section 5727.11 of the Revised Code multiplied by the per cent of 60060
the electricity generated in the preceding calendar year that was 60061

not used by the person who generated it; plus 60062

(2) The true value of the property that is not production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it. 60063
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(C) The property reported under division (B) of this section shall be listed and assessed at an amount equal to the sum of the products determined under divisions (C)(1) and (2) of this section. 60068
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(1) Multiply the portion of the true value determined under division (B)(1) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company; 60072
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(2) Multiply the portion of the true value determined under division (B)(2) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment. 60076
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Sec. 5727.06. (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility ~~or~~, interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner: 60080
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(1) For tax years before tax year 2006: 60084

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 60085
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~~(2)~~(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the 60089
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thirty-first day of December of the preceding year and all 60092
watercraft owned or operated by the water transportation company 60093
in this state during the preceding calendar year; 60094

~~(3)(c)~~ In the case of all other public utilities and 60095
interexchange telecommunications companies, all tangible personal 60096
property that on the thirty-first day of December of the preceding 60097
year was both located in this state and: 60098

~~(a)(i)~~ Owned by the public utility or interexchange 60099
telecommunications company; or 60100

~~(b)(ii)~~ Leased by the public utility or interexchange 60101
telecommunications company under a sale and leaseback transaction. 60102

(2) For tax years 2006, 2007, and 2008: 60103

(a) In the case of a railroad company, all real property and 60104
tangible personal property owned, or operated by the railroad 60105
company in this state on the thirty-first day of December of the 60106
preceding year; 60107

(b) In the case of a water transportation company, all 60108
tangible personal property, except watercraft, owned, or operated 60109
by the water transportation company in this state on the 60110
thirty-first day of December of the preceding year and all 60111
watercraft owned, or operated by the water transportation company 60112
in this state during the preceding calendar year; 60113

(c) In the case of all other public utilities and 60114
interexchange telecommunications companies, all tangible personal 60115
property that on the thirty-first day of December of the preceding 60116
year was both located in this state and either owned by the public 60117
utility or interexchange telecommunications company or leased by 60118
the public utility or interexchange telecommunications company 60119
under a sale and leaseback transaction. 60120

(3) For tax year 2009 and each tax year thereafter: 60121

(a) In the case of a railroad company, all real property used 60122
in railroad operations and tangible personal property owned or 60123
operated by the railroad company in this state on the thirty-first 60124
day of December of the preceding year; 60125

(b) In the case of a water transportation company, all 60126
tangible personal property, except watercraft, owned or operated 60127
by the water transportation company in this state on the 60128
thirty-first day of December of the preceding year and all 60129
watercraft owned or operated by the water transportation company 60130
in this state during the preceding calendar year; 60131

(c) In the case of all other public utilities and 60132
interexchange telecommunications companies, all tangible personal 60133
property that on the thirty-first day of December of the preceding 60134
year was both located in this state and either owned by the public 60135
utility or interexchange telecommunications company or leased by 60136
the public utility or interexchange telecommunications company 60137
under a sale and leaseback transaction; 60138

(d) In the case of a public utility property lessor, all 60139
personal property that on the thirty-first day of December of the 60140
preceding year was both located in this state and leased, in other 60141
than a sale and leaseback transaction, to an interexchange 60142
telecommunications company or a public utility other than a 60143
railroad company or water transportation company. The assessment 60144
rate used under section 5727.111 of the Revised Code shall be 60145
based on the assessment rate that would apply if the interexchange 60146
telecommunications company or public utility owned the property. 60147

(B) In the case of an interexchange telecommunications 60148
company, all taxable property shall be subject to the provisions 60149
of this chapter and shall be valued by the commissioner in 60150
accordance with division (A) of section 5727.11 of the Revised 60151
Code. A person described by this division shall file the report 60152

required by section 5727.08 of the Revised Code. Persons described 60153
in this division shall not be considered taxpayers, as defined in 60154
division (B) of section 5711.01 of the Revised Code, and shall not 60155
be required to file a return and list their taxable property under 60156
any provision of Chapter 5711. of the Revised Code. 60157

(C) The lien of the state for taxes levied each year on the 60158
real and personal property of public utilities and interexchange 60159
telecommunications companies and on the personal property of 60160
public utility property lessors shall attach thereto on the 60161
thirty-first day of December of the preceding year. 60162

(D) Property that is required by division (A)(3)(b) of this 60163
section to be assessed by the tax commissioner under this chapter 60164
shall not be listed by the owner of the property under Chapter 60165
5711. of the Revised Code. 60166

(E) The tax commissioner may adopt rules governing the 60167
listing of the taxable property of public utilities and 60168
interexchange telecommunications companies and the determination 60169
of true value. 60170

Sec. 5727.08. On or before the first day of March, annually, 60171
each public utility and interexchange telecommunications company, 60172
and, for tax years 2009 and thereafter, each public utility 60173
property lessor, shall file a report with the tax commissioner, on 60174
a form prescribed by the tax commissioner. The report shall 60175
include such information as the tax commissioner requires to 60176
enable the tax commissioner to make any assessment or 60177
apportionment required under this chapter. 60178

The report shall be signed by either the owner of the public 60179
utility interexchange telecommunications company, or public 60180
utility property lessor or the president, secretary, treasurer, or 60181
another duly authorized person. 60182

If such a public utility company, or lessor fails to file the 60183
report on or before the first day of March, or the date it is due 60184
under an extension allowed pursuant to section 5727.48 of the 60185
Revised Code, or fails to accurately report all taxable property, 60186
the tax commissioner may impose a penalty of up to fifty per cent 60187
of the taxable value of the property that was not timely or 60188
accurately reported. However, if ~~the~~ such a public utility, 60189
company, or lessor files, within sixty days after the first day of 60190
March or the extended due date, the report or an amended report 60191
and discloses all items of taxable property that are required by 60192
this chapter to be reported, the penalty shall not be more than 60193
five per cent of the taxable value that was not timely or 60194
accurately reported. The penalty shall be added to and considered 60195
a part of the total taxable value of the property that was not 60196
timely or accurately reported, and may be abated in whole or in 60197
part by the tax commissioner pursuant to a petition for 60198
reassessment filed under section 5727.47 of the Revised Code. 60199

Sec. 5727.10. Annually, the tax commissioner shall determine, 60200
in accordance with section 5727.11 of the Revised Code, the true 60201
value in money of all taxable property, except property of a 60202
railroad company, required by ~~division (A)(2) or (3) of~~ section 60203
5727.06 of the Revised Code to be assessed by the commissioner. 60204
The commissioner also shall determine the total taxable value of 60205
such property based on the percentages of true value at which the 60206
property is required to be assessed by section 5727.111 of the 60207
Revised Code. 60208

The commissioner shall be guided by the information contained 60209
in the report filed by the public utility and such other evidence 60210
and rules as will enable ~~him~~ the commissioner to make these 60211
determinations. 60212

Before issuing the preliminary assessment under section 60213

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 section, the true value of all taxable property, except property of a railroad company, required by ~~division (A)(2) or (3) of~~ section 5727.06 of the Revised Code to be assessed by the tax commissioner shall be determined by a method of valuation using cost as capitalized on the public utility's books and records less composite annual allowances as prescribed by the commissioner. If the commissioner finds that application of this method will not result in the determination of true value of the public utility's taxable property, the commissioner may use another method of valuation.

(B)(1) Except as provided in division (B)(2) of this section, the true value of current gas stored underground is the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(2) For tax year 2001 and thereafter, the true value of current gas stored underground is the quotient obtained by dividing (a) the average value of the current gas stored underground, which shall be determined by adding the value of the gas on hand at the end of each calendar month in the calendar year preceding the tax year, or, if applicable, the last day of business of each month for a partial month, divided by (b) the total number of months the natural gas company was in business

during the calendar year prior to the beginning of the tax year. 60245
with the approval of the tax commissioner, a natural gas company 60246
may use a date other than the end of a calendar month to value its 60247
current gas stored underground. 60248

(C) The true value of noncurrent gas stored underground is 60249
thirty-five per cent of the cost of that gas shown on the books 60250
and records of the public utility on the thirty-first day of 60251
December of the preceding year. 60252

(D)(1) Except as provided in division (D)(2) of this section, 60253
the true value of the production equipment of an electric company 60254
and the true value of all taxable property of a rural electric 60255
company is the equipment's or property's cost as capitalized on 60256
the company's books and records less fifty per cent of that cost 60257
as an allowance for depreciation and obsolescence. 60258

(2) The true value of the production equipment of an electric 60259
company or rural electric company purchased, transferred, or 60260
placed into service after the effective date of this amendment is 60261
the purchase price of the equipment as capitalized on the 60262
company's books and records less composite annual allowances as 60263
prescribed by the tax commissioner. 60264

(E) The true value of taxable property ~~described in division~~ 60265
~~(A)(2) or (3) of~~, except property of a railroad company, required 60266
by section 5727.06 of the Revised Code to be assessed by the tax 60267
commissioner shall not include the allowance for funds used during 60268
construction or interest during construction that has been 60269
capitalized on the public utility's books and records as part of 60270
the total cost of the taxable property. This division shall not 60271
apply to the taxable property of an electric company or a rural 60272
electric company, excluding transmission and distribution 60273
property, first placed into service after December 31, 2000, or to 60274
the taxable property a person purchases, which includes transfers, 60275

if that property was used in business by the seller prior to the purchase. 60276
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(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters. 60278
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(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction. 60285
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(H) The cost as capitalized on the books and records of a public utility includes amounts capitalized that represent regulatory assets, if such amounts previously were included on the company's books and records as capitalized costs of taxable personal property. 60289
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(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes. Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying the composite annual allowances shall not be subject to discovery or disclosure. 60294
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Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value: 60302
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~~(A)(1) Except as provided in division (A)(2) of this section,~~ 60306
~~fifty per cent in the case of a rural electric company;~~ 60307

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in 60308
the case of the taxable transmission and distribution property of 60309
a rural electric company, and twenty-five per cent for all its 60310
other taxable property; 60311

(B) In the case of a telephone or telegraph company, 60312
twenty-five per cent for taxable property first subject to 60313
taxation in this state for tax year 1995 or thereafter, and the 60314
following for all other taxable property: 60315

(1) For tax years prior to 2005, eighty-eight per cent; 60316

(2) For tax year 2005, sixty-seven per cent; 60317

(3) For tax year 2006, forty-six per cent; 60318

(4) For tax year 2007 and thereafter, twenty-five per cent. 60319

(C) Twenty-five per cent in the case of a natural gas 60320
company. 60321

(D) Eighty-eight per cent in the case of a pipe-line, 60322
water-works, or heating company; 60323

~~(E)(1) Except as provided in division (E)(2) or (3) of this~~ 60324
~~section, one hundred per cent in the case of the taxable~~ 60325
~~production equipment of an electric company and eighty eight per~~ 60326
~~cent for all its other taxable property;~~ 60327

~~(2) For tax year 2001 and thereafter~~ 2005, eighty-eight per 60328
cent in the case of the taxable transmission and distribution 60329
property of an electric company, and twenty-five per cent for all 60330
its other taxable property; 60331

~~(3) Property listed and assessed under divisions (B)(1) and~~ 60332
~~(2) of section 5711.22 of the Revised Code and leased to an~~ 60333
~~electric company shall continue to be assessed at one hundred per~~ 60334

~~cent for production equipment and eighty-eight (2) For tax year~~ 60335
~~2006 and each tax year thereafter, eighty-five per cent in the~~ 60336
~~case of the taxable transmission and distribution property of an~~ 60337
~~electric company, and twenty-four per cent for all such its other~~ 60338
~~taxable property until January 1, 2002.~~ 60339

(F) Twenty-five per cent in the case of an interexchange 60340
telecommunications company; 60341

(G) Twenty-five per cent in the case of a water 60342
transportation company. 60343

Sec. 5727.12. As used in this chapter, "property used in 60344
railroad operations" means property used in or determined by the 60345
tax commissioner to be held by a railroad for use in railroad 60346
operations. In determining the true value of all real and personal 60347
property owned or leased by each railroad company and used in 60348
railroad operations, the commissioner shall use the unitary method 60349
and value all of the property of the company's railroad system as 60350
a whole, considering the factors generally used in that method, 60351
and weighing each factor appropriately. The true value of the 60352
property used in railroad operations shall be apportioned to this 60353
state as provided in section 5727.14 of the Revised Code. The 60354
commissioner shall separately determine the true value of property 60355
owned by the company that the commissioner determines is not used 60356
in railroad operations. The commissioner may require the advice of 60357
county auditors concerning such values. 60358

All property of a railroad shall be assessed for taxation at 60359
the same percentage of true value at which all other real property 60360
in this state is assessed, in the case of real property, and at 60361
the percentage of true value provided under divisions (E) ~~and~~, 60362
(F), and (G) of section 5711.22 of the Revised Code, in the case 60363
of personal property. 60364

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. 5727.23. On or before the first Monday in October, annually, the tax commissioner shall assess the taxable property of each public utility. The and interexchange telecommunications company, and for tax year 2009 and thereafter of each public utility property lessor. If the taxpayer failed to file its annual report required by section 5727.08 of the Revised Code at least sixty days prior to such date, the commissioner may make the assessment under this section within sixty days after the taxpayer files the report, but this does not preclude the commissioner from making an assessment without receiving the report.

The action of the tax commissioner shall be evidenced by a preliminary assessment that reflects the taxable value apportioned to each county and each taxing district in the county. The commissioner may amend the preliminary assessment as provided in this section. Each preliminary assessment and amended preliminary assessment shall be certified to the public utility, interexchange telecommunications company, or public utility property lessor, and to, the auditor of each county to which taxable value has been apportioned.

The county auditor shall place the apportioned taxable value on the general tax list and duplicate of real and public utility property, and taxes shall be levied and collected thereon at the

same rates and in the same manner as taxes are levied and
collected on real property in the taxing district in question.

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Unless a petition for reassessment of an assessment has been
properly filed pursuant to section 5727.47 of the Revised Code,
each preliminary assessment and, if amended, each preliminary
assessment as last amended shall become final ninety days after
certification of the preliminary assessment or thirty days after
certification of the amended preliminary assessment, whichever is
later. If a petition for reassessment is properly filed, the
assessment shall become final when the tax commissioner issues a
final determination.

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Neither the certification of any preliminary or amended
assessment nor the expiration of the period of time that makes any
assessment final constitutes a final determination, assessment,
reassessment, valuation, finding, computation, or order of the
commissioner that is appealable under section 5717.02 of the
Revised Code.

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Sec. 5727.241. (A) As used in this section:

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(1) "Tax otherwise due" means the tax imposed on a taxpayer
under section 5727.24 of the Revised Code reduced by the total
amount of all other nonrefundable credits, if any, that the
taxpayer is entitled to claim.

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(2) "Taxpayer" means any person subject to the tax imposed by
section 5727.24 of the Revised Code.

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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
taxpayer under section 5727.24 of the Revised Code. The credit
shall be claimed on a return due under section 5727.25 of the
Revised Code after the certificate is issued by the authority.

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(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate. 60426
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(D) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the sum of the following: 60431
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(1) The amount, if any, of the tax otherwise due; 60436

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due. 60437
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(E) If the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code and if the nonrefundable credit to which the taxpayer would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess nonrefundable credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year. 60440
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Sec. 5727.47. (A) Notice of each assessment certified pursuant to section 5727.23 or 5727.38 of the Revised Code shall be mailed to the public utility, and its mailing shall be prima-facie evidence of its receipt by the public utility to which it is addressed. With the notice, the tax commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition. If a public utility objects to 60449
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any assessment certified to it pursuant to such sections, it may 60456
file with the commissioner, either personally or by certified 60457
mail, within sixty days after the mailing of the notice of 60458
assessment a written petition for reassessment signed by the 60459
utility's authorized agent having knowledge of the facts. If the 60460
petition is filed by certified mail, the date of the United States 60461
postmark placed on the sender's receipt by the postal employee to 60462
whom the petition is presented shall be treated as the date of 60463
filing. The petition shall indicate the utility's objections, but 60464
additional objections may be raised in writing if received by the 60465
commissioner prior to the date shown on the final determination. 60466

In the case of a petition seeking a reduction in taxable 60467
value filed with respect to an assessment issued under section 60468
5727.23 of the Revised Code, the petitioner shall state in the 60469
petition the total amount of reduction in taxable value sought by 60470
the petitioner. If the petitioner objects to the percentage of 60471
true value at which taxable property is assessed by the 60472
commissioner, the petitioner shall state in the petition the total 60473
amount of reduction in taxable value sought both with and without 60474
regard to the objection pertaining to the percentage of true value 60475
at which its taxable property is assessed. If a petitioner objects 60476
to the commissioner's apportionment of the taxable value of the 60477
petitioner's taxable property, the petitioner shall distinctly 60478
state in the petition that the petitioner objects to the 60479
commissioner's apportionment, and, within forty-five days after 60480
filing the petition for reassessment, shall submit the 60481
petitioner's proposed apportionment of the taxable value of its 60482
taxable property among taxing districts. If a petitioner that 60483
objects to the commissioner's apportionment fails to state its 60484
objections to that apportionment in its petition for reassessment 60485
or fails to submit its proposed apportionment within forty-five 60486
days after filing the petition for reassessment, the commissioner 60487
shall dismiss the petitioner's objection to the commissioner's 60488

apportionment, and the taxable value of the petitioner's taxable
property, subject to any adjustment to taxable value pursuant to
the petition or appeal, shall be apportioned in the manner used by
the commissioner in the preliminary or amended preliminary
assessment issued under section 5727.23 of the Revised Code.

If an additional objection seeking a reduction in taxable
value in excess of the reduction stated in the original petition
is properly and timely raised with respect to an assessment issued
under section 5727.23 of the Revised Code, the petitioner shall
state the total amount of the reduction in taxable value sought in
the additional objection both with and without regard to any
reduction in taxable value pertaining to the percentage of true
value at which taxable property is assessed. If a petitioner fails
to state the reduction in taxable value sought in the original
petition or in additional objections properly raised after the
petition is filed, the commissioner shall notify the petitioner of
the failure by certified mail. If the petitioner fails to notify
the commissioner in writing of the reduction in taxable value
sought in the petition or in an additional objection within thirty
days after receiving the commissioner's notice, the commissioner
shall dismiss the petition or the additional objection in which
that reduction is sought.

(B)(1) Subject to divisions (B)(2) and (3) of this section, a
public utility filing a petition for reassessment regarding an
assessment issued under section 5727.23 or 5727.38 of the Revised
Code shall pay the tax with respect to the assessment objected to
as required by law. The acceptance of any tax payment by the
treasurer of state or any county treasurer shall not prejudice any
claim for taxes on final determination by the commissioner or
final decision by the board of tax appeals or any court.

(2) If a public utility properly and timely files a petition
for reassessment regarding an assessment issued under section

5727.23 of the Revised Code, the petitioner shall pay the tax as prescribed by divisions (B)(2)(a), (b), and (c) of this section:

(a) If the petitioner does not object to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the part of the tax otherwise due on the taxable value that the petitioner seeks to have reduced, subject to division (B)(2)(c) of this section.

(b) If the petitioner objects to the commissioner's apportionment of the taxable value of the petitioner's taxable property, the petitioner is not required to pay the tax otherwise due on the part of the taxable value apportioned to any taxing district that the petitioner objects to, subject to division (B)(2)(c) of this section. If, pursuant to division (A) of this section, the petitioner has, in a proper and timely manner, apportioned taxable value to a taxing district to which the commissioner did not apportion the petitioner's taxable value, the petitioner shall pay the tax due on the taxable value that the petitioner has apportioned to the taxing district, subject to division (B)(2)(c) of this section.

(c) If a petitioner objects to the percentage of true value at which taxable property is assessed by the commissioner, the petitioner shall pay the tax due on the basis of the percentage of true value at which the public utility's taxable property is assessed by the commissioner. In any case, the petitioner's payment of tax shall not be less than the amount of tax due based on the taxable value reflected on the last appeal notice issued by the commissioner under division (C) of this section. Until the county auditor receives notification under division (E) of this section and proceeds under section 5727.471 of the Revised Code to issue any refund that is found to be due, the county auditor shall not issue a refund for any increase in the reduction in taxable value that is sought by a petitioner later than forty-five days

after the petitioner files the original petition as required under 60553
division (A) of this section. 60554

(3) Any part of the tax that, under division (B)(2)(a) or (b) 60555
of this section, is not paid shall be collected upon receipt of 60556
the notification as provided in section 5727.471 of the Revised 60557
Code with interest thereon computed in the same manner as interest 60558
is computed under division (E) of section 5715.19 of the Revised 60559
Code, subject to any correction of the assessment by the 60560
commissioner under division (E) of this section or the final 60561
judgment of the board of tax appeals or a court to which the 60562
board's final judgment is appealed. The penalty imposed under 60563
section 323.121 of the Revised Code shall apply only to the unpaid 60564
portion of the tax if the petitioner's tax payment is less than 60565
the amount of tax due based on the taxable value reflected on the 60566
last appeal notice issued by the commissioner under division (C) 60567
of this section. 60568

(4) For purposes of divisions (B)(1) and (B)(2)(a) and (b) of 60569
this section, the petitioner shall make a binding election along 60570
with the petition for reassessment either to pay the full amount 60571
of the taxes based on the taxable value shown on the preliminary 60572
assessment or amended preliminary assessment issued under section 60573
5727.23 of the Revised Code, or to pay an amount of taxes based on 60574
the reduced value or apportioned value shown on the appeal notice 60575
issued under division (C) of this section, subject to division 60576
(B)(2)(c) of this section. 60577

(C) Upon receipt of a properly filed petition for 60578
reassessment, the tax commissioner shall notify the treasurer of 60579
state or the auditor of each county to which the assessment 60580
objected to has been certified. In the case of a petition with 60581
respect to an assessment issued under section 5727.23 of the 60582
Revised Code, the commissioner shall issue an appeal notice within 60583
thirty days after receiving the amount of the taxable value 60584

reduction and apportionment changes sought by the petitioner in 60585
the original petition or in any additional objections properly and 60586
timely raised by the petitioner. The appeal notice shall indicate 60587
the amount of the reduction in taxable value sought in the 60588
petition or in the additional objections and the extent to which 60589
the reduction in taxable value and any change in apportionment 60590
requested by the petitioner would affect the commissioner's 60591
apportionment of the taxable value among taxing districts in the 60592
county as shown in the assessment. If a petitioner is seeking a 60593
reduction in taxable value on the basis of a lower percentage of 60594
true value than the percentage at which the commissioner assessed 60595
the petitioner's taxable property, the appeal notice shall 60596
indicate the reduction in taxable value sought by the petitioner 60597
without regard to the reduction sought on the basis of the lower 60598
percentage and shall indicate that the petitioner is required to 60599
pay tax on the reduced taxable value determined without regard to 60600
the reduction sought on the basis of a lower percentage of true 60601
value, as provided under division (B)(2)(c) of this section. The 60602
appeal notice shall include a statement that the reduced taxable 60603
value and the apportionment indicated in the notice are not final 60604
and are subject to adjustment by the commissioner or by the board 60605
of tax appeals or a court on appeal. If the commissioner finds an 60606
error in the appeal notice, the commissioner may amend the notice, 60607
but the notice is only for informational and tax payment purposes; 60608
the notice is not subject to appeal by any person. The 60609
commissioner also shall mail a copy of the appeal notice to the 60610
petitioner. Upon the request of a taxing authority, the county 60611
auditor may disclose to the taxing authority the extent to which a 60612
reduction in taxable value sought by a petitioner would affect the 60613
apportionment of taxable value to the taxing district or districts 60614
under the taxing authority's jurisdiction, but such a disclosure 60615
does not constitute a notice required by law to be given for the 60616
purpose of section 5717.02 of the Revised Code. 60617

(D) If the petitioner requests a hearing on the petition, the tax commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of such time and place, but the commissioner may continue the hearing from time to time as necessary.

(E) The tax commissioner may make corrections to the assessment as the commissioner finds proper. The commissioner shall serve a copy of the commissioner's final determination on the petitioner in the manner provided in section 5703.37 of the Revised Code. The commissioner's decision in the matter shall be final, subject to appeal under section 5717.02 of the Revised Code. The commissioner also shall transmit a copy of the final determination to the treasurer of state or applicable county auditor. In the absence of any further appeal, or when a decision of the board of tax appeals or of any court to which the decision has been appealed becomes final, the commissioner shall notify the public utility and, as appropriate, the treasurer of state who shall proceed under section 5727.42 of the Revised Code, or the applicable county auditor who shall proceed under section 5727.471 of the Revised Code.

The notification made under this division is not subject to further appeal.

(F) On appeal, no adjustment shall be made in the tax commissioner's assessment issued under section 5727.23 of the Revised Code that reduces the taxable value of a petitioner's taxable property by an amount that exceeds the reduction sought by the petitioner in its petition for reassessment or in any additional objections properly and timely raised after the petition is filed with the commissioner.

Sec. 5727.81. (A) For the purpose of raising revenue for public education and state and local government operations, an

excise tax is hereby levied and imposed on an electric 60649
distribution company for all electricity distributed by such 60650
company ~~beginning with the measurement period that includes May 1,~~ 60651
~~2001,~~ at the following rates per kilowatt hour of electricity 60652
distributed in a thirty-day period by the company through a meter 60653
of an end user in this state: 60654

KILOWATT HOURS DISTRIBUTED	RATE PER	
TO AN END USER	KILOWATT HOUR	
For the first 2,000	\$.00465 <u>.00605</u>	60657
For the next 2,001 to 15,000	\$.00419 <u>.00545</u>	60658
For 15,001 and above	\$.00363 <u>.00472</u>	60659

If no meter is used to measure the kilowatt hours of 60660
electricity distributed by the company, the rates shall apply to 60661
the estimated kilowatt hours of electricity distributed to an 60662
unmetered location in this state. 60663

The electric distribution company shall base the monthly tax 60664
on the kilowatt hours of electricity distributed to an end user 60665
through the meter of the end user that is not measured for a 60666
thirty-day period by dividing the days in the measurement period 60667
into the total kilowatt hours measured during the measurement 60668
period to obtain a daily average usage. The tax shall be 60669
determined by obtaining the sum of divisions (A)(1), (2), and (3) 60670
of this section and multiplying that amount by the number of days 60671
in the measurement period: 60672

(1) Multiplying ~~\$0.00465~~ .00605 per kilowatt hour for the 60673
first sixty-seven kilowatt hours distributed using a daily 60674
average; 60675

(2) Multiplying ~~\$0.00419~~ .00545 for the next sixty-eight to 60676
five hundred kilowatt hours distributed using a daily average; 60677

(3) Multiplying ~~\$0.00363~~ .00472 for the remaining kilowatt 60678
hours distributed using a daily average. 60679

~~Until January 1, 2003, except as provided in division (C) of~~ 60680
~~this section, the electric distribution company shall pay the tax~~ 60681
~~to the treasurer of state in accordance with section 5727.82 of~~ 60682
~~the Revised Code. Beginning January 1, 2003, except~~ Except as 60683
provided in division (C) of this section, the electric 60684
distribution company shall pay the tax to the tax commissioner in 60685
accordance with section 5727.82 of the Revised Code, unless 60686
required to remit each tax payment by electronic funds transfer to 60687
the treasurer of state in accordance with section 5727.83 of the 60688
Revised Code. 60689

Only the distribution of electricity through a meter of an 60690
end user in this state shall be used by the electric distribution 60691
company to compute the amount or estimated amount of tax due. In 60692
the event a meter is not actually read for a measurement period, 60693
the estimated kilowatt hours distributed by an electric 60694
distribution company to bill for its distribution charges shall be 60695
used. 60696

(B) Except as provided in division (C) of this section, each 60697
electric distribution company shall pay the tax imposed by this 60698
section in all of the following circumstances: 60699

(1) The electricity is distributed by the company through a 60700
meter of an end user in this state; 60701

(2) The company is distributing electricity through a meter 60702
located in another state, but the electricity is consumed in this 60703
state in the manner prescribed by the tax commissioner; 60704

(3) The company is distributing electricity in this state 60705
without the use of a meter, but the electricity is consumed in 60706
this state as estimated and in the manner prescribed by the tax 60707
commissioner. 60708

(C)(1) As used in division (C) of this section: 60709

(a) "Total price of electricity" means the aggregate value in money of anything paid or transferred, or promised to be paid or transferred, to obtain electricity or electric service, including but not limited to the value paid or promised to be paid for the transmission or distribution of electricity and for transition costs as described in Chapter 4928. of the Revised Code.

(b) "Package" means the provision or the acquisition, at a combined price, of electricity with other services or products, or any combination thereof, such as natural gas or other fuels; energy management products, software, and services; machinery and equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on contiguous property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request ~~by~~ of an applicant for registration as a self-assessing purchaser under this division. Such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and ~~four~~ five per cent of the total price of all electricity distributed to that meter or location. A qualified end user that receives electricity through a meter of an end user in this state or through more than one meter at a single location

in this state and that consumes, over the course of the previous 60742
calendar year, more than forty-five million kilowatt hours in 60743
other than its qualifying manufacturing process, may elect to 60744
self-assess the tax as allowed by this division with respect to 60745
the electricity used in other than its qualifying manufacturing 60746
process. ~~Until January 1, 2003, payment of the tax shall be made~~ 60747
~~directly to the treasurer of state in accordance with divisions~~ 60748
~~(A)(4) and (5) of section 5727.82 of the Revised Code. Beginning~~ 60749
~~January 1, 2003, payment~~ The tax due from a self-assessing 60750
purchaser under this division shall be the tax as assessed under 60751
this division less any credit allowed under section 5727.812 of 60752
the Revised Code. 60753

Payment of the tax shall be made directly to the tax 60754
commissioner in accordance with divisions (A)(4) and (5) of 60755
section 5727.82 of the Revised Code, or the treasurer of state in 60756
accordance with section 5727.83 of the Revised Code. If the 60757
electric distribution company serving the self-assessing purchaser 60758
is a municipal electric utility and the purchaser is within the 60759
municipal corporation's corporate limits, payment of the portion 60760
of the tax described in division (A)(3)(a) of section 5727.82 of 60761
the Revised Code shall be made to such municipal corporation's 60762
general fund and reports shall be filed in accordance with 60763
divisions (A)(4) and (5) of section 5727.82 of the Revised Code, 60764
except that "municipal corporation" shall be substituted for 60765
"treasurer of state" and "tax commissioner." The remainder of the 60766
tax shall be paid directly to the tax commissioner in accordance 60767
with divisions (A)(4) and (5) of section 5727.82 of the Revised 60768
Code, or the treasurer of state in accordance with section 5727.83 60769
of the Revised Code. A self-assessing purchaser that pays the 60770
excise tax as provided in this division shall not be required to 60771
pay the tax to the electric distribution company from which its 60772
electricity is distributed. If a self-assessing purchaser's 60773
receipt of electricity is not subject to the tax as measured under 60774

this division, the tax on the receipt of such electricity shall be measured and paid as provided in division (A) of this section.

(3) In the case of the acquisition of a package, unless the elements of the package are separately stated isolating the total price of electricity from the price of the remaining elements of the package, the tax imposed under this section applies to the entire price of the package. If the elements of the package are separately stated, the tax imposed under this section applies to the total price of the electricity.

(4) Any electric supplier that sells electricity as part of a package shall separately state to the purchaser the total price of the electricity and, upon request by the tax commissioner, the total price of each of the other elements of the package.

(5) The tax commissioner may adopt rules relating to the computation of the total price of electricity with respect to self-assessing purchasers, which may include rules to establish the total price of electricity purchased as part of a package.

(6) An annual application for registration as a self-assessing purchaser shall be made for each qualifying meter or location on a form prescribed by the tax commissioner. The registration year begins on the first day of May and ends on the following thirtieth day of April. Persons may apply after the first day of May for the remainder of the registration year. In the case of an applicant applying on the basis of an estimated consumption of forty-five million kilowatt hours over the course of the succeeding twelve months, the applicant shall provide such information as the tax commissioner considers to be necessary to estimate such consumption. At the time of making the application and by the first day of May of each year, ~~excluding May 1, 2000,~~ a self-assessing purchaser shall pay a fee of five hundred dollars to the tax commissioner, or to the treasurer of state as provided in section 5727.83 of the Revised Code, for each qualifying meter

or location. The tax commissioner shall immediately pay to the 60807
treasurer of state all amounts that the tax commissioner receives 60808
under this section. The treasurer of state shall deposit such 60809
amounts into the kilowatt hour excise tax administration fund, 60810
which is hereby created in the state treasury. Money in the fund 60811
shall be used to defray the tax commissioner's cost in 60812
administering the tax owed under section 5727.81 of the Revised 60813
Code by self-assessing purchasers. After the application is 60814
approved by the tax commissioner, the registration shall remain in 60815
effect for the current registration year, or until canceled by the 60816
registrant upon written notification to the commissioner of the 60817
election to pay the tax in accordance with division (A) of this 60818
section, or until canceled by the tax commissioner for not paying 60819
the tax or fee under division (C) of this section or for not 60820
meeting the qualifications in division (C)(2) of this section. The 60821
tax commissioner shall give written notice to the electric 60822
distribution company from which electricity is delivered to a 60823
self-assessing purchaser of the purchaser's self-assessing status, 60824
and the electric distribution company is relieved of the 60825
obligation to pay the tax imposed by division (A) of this section 60826
for electricity distributed to that self-assessing purchaser until 60827
it is notified by the tax commissioner that the self-assessing 60828
purchaser's registration is canceled. Within fifteen days of 60829
notification of the canceled registration, the electric 60830
distribution company shall be responsible for payment of the tax 60831
imposed by division (A) of this section on electricity distributed 60832
to a purchaser that is no longer registered as a self-assessing 60833
purchaser. A self-assessing purchaser with a canceled registration 60834
must file a report and remit the tax imposed by division (A) of 60835
this section on all electricity it receives for any measurement 60836
period prior to the tax being reported and paid by the electric 60837
distribution company. A self-assessing purchaser whose 60838
registration is canceled by the tax commissioner is not eligible 60839

to register as a self-assessing purchaser for two years after the 60840
registration is canceled. 60841

(7) If the tax commissioner cancels the self-assessing 60842
registration of a purchaser registered on the basis of its 60843
estimated consumption because the purchaser does not consume at 60844
least forty-five million kilowatt hours of electricity over the 60845
course of the twelve-month period for which the estimate was made, 60846
the tax commissioner shall assess and collect from the purchaser 60847
the difference between (a) the amount of tax that would have been 60848
payable under division (A) of this section on the electricity 60849
distributed to the purchaser during that period, and (b) the 60850
amount of tax paid by the purchaser on such electricity pursuant 60851
to division (C)(2)(a) of this section plus any credit the 60852
purchaser was entitled to during that period under section 60853
5727.812 of the Revised Code. The assessment shall be paid within 60854
sixty days after the tax commissioner issues it, regardless of 60855
whether the purchaser files a petition for reassessment under 60856
section 5727.89 of the Revised Code covering that period. If the 60857
purchaser does not pay the assessment within the time prescribed, 60858
the amount assessed is subject to the additional charge and the 60859
interest prescribed by divisions (B) and (C) of section 5727.82 of 60860
the Revised Code, and is subject to assessment under section 60861
5727.89 of the Revised Code. If the purchaser is a qualified end 60862
user, division (C)(7) of this section applies only to electricity 60863
it consumes in other than its qualifying manufacturing process. 60864

(D) The tax imposed by this section does not apply to the 60865
distribution of any kilowatt hours of electricity to the federal 60866
government, to an end user located at a federal facility that uses 60867
electricity for the enrichment of uranium, to a qualified 60868
regeneration meter, or to an end user for any day the end user is 60869
a qualified end user. The exemption under this division for a 60870
qualified end user only applies to the manufacturing location 60871

where the qualified end user uses more than three million kilowatt 60872
hours per day in a qualifying manufacturing process. 60873

Sec. 5727.812. (A) As used in this section: 60874

(1) "Baseline revenue" means the total amount of tax imposed 60875
on self-assessing purchasers under division (C) of section 5727.81 60876
of the Revised Code during the twelve-month period from July 1, 60877
2004, through June 30, 2005. 60878

(2) "Consumer price index" means the consumer price index for 60879
all urban consumers (United States city average, all items) 60880
prepared by the United States department of labor, bureau of labor 60881
statistics. 60882

(3) "Inflation-adjusted baseline revenue" means baseline 60883
revenue multiplied by (a) the consumer price index for May of the 60884
year in which the tax commissioner makes the determination under 60885
division (C)(3) of this section divided by (b) the consumer price 60886
index for June 2005. 60887

(4) "Threshold revenue" means, for any fiscal year, the sum 60888
of inflation-adjusted baseline revenue and ten million dollars. 60889

(B) On or before September 1, 2006, the tax commissioner 60890
shall determine the baseline revenue. 60891

(C) On or before the first day of September each year 60892
beginning in 2006, the tax commissioner shall: 60893

(1) Compute the threshold revenue for the preceding fiscal 60894
year; 60895

(2) Determine the amount of taxes imposed on self-assessing 60896
purchasers under division (C) of section 5727.81 of the Revised 60897
Code during the preceding fiscal year; 60898

(3) Compute the amount, if any, by which the amount of taxes 60899
determined under division (C)(2) of this section exceeds the 60900

threshold revenue computed under division (C)(1) of this section; 60901
and 60902

(4) Compute the percentage that the excess amount, if any, 60903
computed under division (C)(3) of this section is of the threshold 60904
revenue. 60905

(D) A credit shall be applied against the tax due from each 60906
self-assessing purchaser under division (C) of section 5727.81 of 60907
the Revised Code. The credit shall equal the percentage computed 60908
under division (C)(4) of this section multiplied by the amount of 60909
tax due and paid from the self-assessing purchaser for the 60910
twelve-month period from July of the preceding year through June 60911
of the current year. The credit shall be applied by subtracting 60912
one-twelfth of that amount from the amount of tax due from the 60913
self-assessing purchaser for each month from the October following 60914
the computation through the following September. 60915

(E) Upon making the determinations and computations under 60916
division (C) of this section, the tax commissioner shall notify 60917
each self-assessing purchaser entitled to the credit of the amount 60918
of the credit and the amount that may be applied against the tax 60919
each month, and shall certify the amounts and percentage computed 60920
or determined under division (C) of this section to the speaker 60921
and minority leader of the house of representatives, to the 60922
president and minority leader of the senate, and to the 60923
chairperson and ranking members of the committees of each chamber 60924
dealing principally with appropriations and principally with 60925
taxation. 60926

(F) If a person is entitled to a credit under division (D) of 60927
this section but the person's registration as a self-assessing 60928
purchaser is canceled during the registration year or terminates 60929
at the end of a registration year before the person recovers the 60930
entire amount of the person's credit, the person shall receive a 60931

refund of the balance of the credit amount the person does not 60932
receive because of the cancellation or termination. Within sixty 60933
days after such cancellation or termination, the tax commissioner 60934
shall determine the amount of the refund to which such a person is 60935
entitled. The tax commissioner shall transmit the amount of the 60936
credit to the treasurer of state, who, within thirty days of such 60937
transmission, shall issue a warrant on the state treasury to the 60938
person entitled to the credit. Refunds are payable from the 60939
general revenue fund. 60940

Sec. 5727.82. (A)(1) Except as provided in divisions (A)(3) 60941
and (D) of this section, by the twentieth day of each month, each 60942
electric distribution company required to pay the tax imposed by 60943
section 5727.81 of the Revised Code shall file with the tax 60944
commissioner a return as prescribed by the tax commissioner and 60945
shall make payment of the full amount of tax due for the preceding 60946
month. The first payment of this tax shall be made on or before 60947
June 20, 2001. The electric distribution company shall make 60948
payment to the tax commissioner unless required to remit each tax 60949
payment by electronic funds transfer to the treasurer of state as 60950
provided in section 5727.83 of the Revised Code. 60951

(2) By the twentieth day of May, August, November, and 60952
February, each natural gas distribution company required to pay 60953
the tax imposed by section 5727.811 of the Revised Code shall file 60954
with the tax commissioner a return as prescribed by the tax 60955
commissioner and shall make payment to the tax commissioner, or to 60956
the treasurer of state as provided in section 5727.83 of the 60957
Revised Code, of the full amount of tax due for the preceding 60958
quarter. The first payment of this tax shall be made on or before 60959
November 20, 2001, for the quarter ending September 30, 2001. 60960

(3)(a) If the electric distribution company required to pay 60961
the tax imposed by section 5727.81 of the Revised Code is a 60962

municipal electric utility, it may retain in its general fund that 60963
portion of the tax on the kilowatt hours distributed to end users 60964
located within the boundaries of the municipal corporation, but 60965
only that portion of the tax that was imposed by division (A) or 60966
(C)(2) of section 5727.81 of the Revised Code as those divisions 60967
existed prior to their amendment by H.B. 66 of the 126th general 60968
assembly. However, the 60969

(b) The municipal electric utility shall make payment in 60970
accordance with division (A)(1) of this section of the tax due on 60971
the kilowatt hours distributed to end users located outside the 60972
boundaries of the municipal corporation, and of the remainder of 60973
the tax due under division (A)(3)(a) of this section that was not 60974
retained in the general fund of the municipal electric utility. 60975

(4) By the twentieth day of each month, each self-assessing 60976
purchaser that under division (C) of section 5727.81 of the 60977
Revised Code pays directly to the tax commissioner or the 60978
treasurer of state the tax imposed by section 5727.81 of the 60979
Revised Code shall file with the tax commissioner a return as 60980
prescribed by the tax commissioner and shall make payment of the 60981
full amount of the tax due for the preceding month less any credit 60982
allowed by section 5727.812 of the Revised Code. 60983

(5) As prescribed by the tax commissioner, a return shall be 60984
signed by the company or self-assessing purchaser required to file 60985
it, or an authorized employee, officer, or agent of the company or 60986
purchaser. The return shall be deemed filed when received by the 60987
tax commissioner. 60988

(B) Any natural gas distribution company, electric 60989
distribution company, or self-assessing purchaser required by this 60990
section to file a return who fails to file it and pay the tax 60991
within the period prescribed shall pay an additional charge of 60992
fifty dollars or ten per cent of the tax required to be paid for 60993
the reporting period, whichever is greater. The tax commissioner 60994

may collect the additional charge by assessment pursuant to 60995
section 5727.89 of the Revised Code. The commissioner may abate 60996
all or a portion of the additional charge and may adopt rules 60997
governing such abatements. 60998

(C) If any tax due is not paid timely in accordance with this 60999
section, the natural gas distribution company, electric 61000
distribution company, or self-assessing purchaser liable for the 61001
tax shall pay interest, calculated at the rate per annum 61002
prescribed by section 5703.47 of the Revised Code, from the date 61003
the tax payment was due to the date of payment or to the date an 61004
assessment is issued, whichever occurs first. Interest shall be 61005
paid in the same manner as the tax, and the commissioner may 61006
collect the interest by assessment pursuant to section 5727.89 of 61007
the Revised Code. 61008

(D) Not later than the tenth day of each month, a qualified 61009
end user not making the election to self-assess under division (C) 61010
of section 5727.81 of the Revised Code shall report in writing to 61011
the electric distribution company that distributes electricity to 61012
the end user the kilowatt hours that were consumed as a qualified 61013
end user in a qualifying manufacturing process for the prior month 61014
and the number of days, if any, on which the end user was not a 61015
qualified end user. For each calendar day during that month, a 61016
qualified end user shall report the kilowatt hours that were not 61017
used in a qualifying manufacturing process. For each calendar day 61018
the end user was not a qualified end user, the end user shall 61019
report in writing to the electric distribution company the total 61020
number of kilowatt hours used on that day, and the electric 61021
distribution company shall pay the tax imposed under section 61022
5727.81 of the Revised Code on each kilowatt hour that was not 61023
distributed to a qualified end user in a qualifying manufacturing 61024
process. The electric distribution company may rely in good faith 61025
on a qualified end user's report filed under this division. If it 61026

is determined that the end user was not a qualified end user for 61027
any calendar day or the quantity of electricity used by the 61028
qualified end user in a qualifying manufacturing process was 61029
overstated, the tax commissioner shall assess and collect any tax 61030
imposed under section 5727.81 of the Revised Code directly from 61031
the qualified end user. As requested by the commissioner, each end 61032
user reporting to an electric distribution company that it is a 61033
qualified end user shall provide documentation to the commissioner 61034
that establishes the volume of electricity consumed daily by the 61035
qualified end user and the total number of kilowatt hours consumed 61036
in a qualifying manufacturing process. 61037

(E) The tax commissioner shall immediately pay to the 61038
treasurer of state all amounts that the tax commissioner receives 61039
under this section. The treasurer of state shall credit such 61040
amounts in accordance with this chapter. 61041

Sec. 5727.84. (A) As used in this section and sections 61042
5727.85, 5727.86, and 5727.87 of the Revised Code: 61043

(1) "School district" means a city, local, or exempted 61044
village school district. 61045

(2) "Joint vocational school district" means a joint 61046
vocational school district created under section 3311.16 of the 61047
Revised Code, and includes a cooperative education school district 61048
created under section 3311.52 or 3311.521 of the Revised Code and 61049
a county school financing district created under section 3311.50 61050
of the Revised Code. 61051

(3) "Local taxing unit" means a subdivision or taxing unit, 61052
as defined in section 5705.01 of the Revised Code, a park district 61053
created under Chapter 1545. of the Revised Code, or a township 61054
park district established under section 511.23 of the Revised 61055
Code, but excludes school districts and joint vocational school 61056

districts.	61057
(4) "State education aid" means the sum of state aid amounts	61058
computed for a school district or joint vocational school district	61059
under Chapter 3317. of the Revised Code.	61060
(5) "State education aid offset" means the amount determined	61061
for each school district or joint vocational school district under	61062
division (A)(1) of section 5727.85 of the Revised Code.	61063
(6) "Recognized valuation" has the same meaning as in section	61064
3317.02 of the Revised Code.	61065
(7) "Electric company tax value loss" means the amount	61066
determined under division (D) of this section.	61067
(8) "Natural gas company tax value loss" means the amount	61068
determined under division (E) of this section.	61069
(9) "Tax value loss" means the sum of the electric company	61070
tax value loss and the natural gas company tax value loss.	61071
(10) "Fixed-rate levy" means any tax levied on property other	61072
than a fixed-sum levy.	61073
(11) "Fixed-rate levy loss" means the amount determined under	61074
division (G) of this section.	61075
(12) "Fixed-sum levy" means a tax levied on property at	61076
whatever rate is required to produce a specified amount of tax	61077
money or levied in excess of the ten-mill limitation to pay debt	61078
charges, and includes school district emergency levies imposed	61079
pursuant to section 5705.194 of the Revised Code.	61080
(13) "Fixed-sum levy loss" means the amount determined under	61081
division (H) of this section.	61082
(14) "Consumer price index" means the consumer price index	61083
(all items, all urban consumers) prepared by the bureau of labor	61084
statistics of the United States department of labor.	61085

(B) The kilowatt-hour tax receipts fund is hereby created in 61086
the state treasury and shall consist of money arising from the tax 61087
imposed by section 5727.81 of the Revised Code. ~~All~~ Beginning 61088
August 1, 2005, all money in the kilowatt-hour tax receipts fund 61089
shall be credited as follows: 61090

(1) ~~Fifty-nine~~ Sixty-nine and ~~nine two~~ hundred ~~seventy-six~~ 61091
thirteen one-thousandths per cent, shall be credited to the 61092
general revenue fund. 61093

(2) Two and ~~six hundred forty-six~~ thirty-five one-thousandths 61094
per cent shall be credited to the local government fund, for 61095
distribution in accordance with section 5747.50 of the Revised 61096
Code. 61097

(3) ~~Three~~ Two hundred ~~seventy-eight~~ ninety-one 61098
one-thousandths per cent shall be credited to the local government 61099
revenue assistance fund, for distribution in accordance with 61100
section 5747.61 of the Revised Code. 61101

(4) ~~Twenty-five~~ Nineteen and ~~four-tenths~~ five hundred 61102
thirty-eight one-thousandths per cent shall be credited to the 61103
school district property tax replacement fund, which is hereby 61104
created in the state treasury for the purpose of making the 61105
payments described in section 5727.85 of the Revised Code. 61106

(5) ~~Eleven~~ Eight and ~~six-tenths~~ nine hundred twenty-three 61107
one-thousandths per cent shall be credited to the local government 61108
property tax replacement fund, which is hereby created in the 61109
state treasury for the purpose of making the payments described in 61110
section 5727.86 of the Revised Code. 61111

~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the~~ 61112
~~revenue arising from the tax levied by section 5727.81 of the~~ 61113
~~Revised Code is less than five hundred fifty two million dollars,~~ 61114
~~the amount credited to the general revenue fund under division~~ 61115
~~(B)(1) of this section shall be reduced by the amount necessary to~~ 61116

~~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 61148
shall be transferred from the general revenue fund to each of the 61149
funds in divisions (C)(1) and (2) of this section in the same 61150
percentages as if that amount had been collected as taxes under 61151
section 5727.811 of the Revised Code. The tax commissioner shall 61152
certify to the director of budget and management the amounts that 61153
shall be transferred under this division. 61154~~

(D) Not later than January 1, 2002, the tax commissioner 61155
shall determine for each taxing district its electric company tax 61156
value loss, which is the sum of the applicable amounts described 61157
in divisions (D)(1) to (3) of this section: 61158

(1) The difference obtained by subtracting the amount 61159
described in division (D)(1)(b) from the amount described in 61160
division (D)(1)(a) of this section. 61161

(a) The value of electric company and rural electric company 61162
tangible personal property as assessed by the tax commissioner for 61163
tax year 1998 on a preliminary assessment, or an amended 61164
preliminary assessment if issued prior to March 1, 1999, and as 61165
apportioned to the taxing district for tax year 1998; 61166

(b) The value of electric company and rural electric company 61167
tangible personal property as assessed by the tax commissioner for 61168
tax year 1998 had the property been apportioned to the taxing 61169
district for tax year 2001, and assessed at the rates in effect 61170
for tax year 2001. 61171

(2) The difference obtained by subtracting the amount 61172
described in division (D)(2)(b) from the amount described in 61173
division (D)(2)(a) of this section. 61174

(a) The three-year average for tax years 1996, 1997, and 1998 61175
of the assessed value from nuclear fuel materials and assemblies 61176
assessed against a person under Chapter 5711. of the Revised Code 61177
from the leasing of them to an electric company for those 61178

respective tax years, as reflected in the preliminary assessments; 61179

(b) The three-year average assessed value from nuclear fuel 61180
materials and assemblies assessed under division (D)(2)(a) of this 61181
section for tax years 1996, 1997, and 1998, as reflected in the 61182
preliminary assessments, using an assessment rate of twenty-five 61183
per cent. 61184

(3) In the case of a taxing district having a nuclear power 61185
plant within its territory, any amount, resulting in an electric 61186
company tax value loss, obtained by subtracting the amount 61187
described in division (D)(1) of this section from the difference 61188
obtained by subtracting the amount described in division (D)(3)(b) 61189
of this section from the amount described in division (D)(3)(a) of 61190
this section. 61191

(a) The value of electric company tangible personal property 61192
as assessed by the tax commissioner for tax year 2000 on a 61193
preliminary assessment, or an amended preliminary assessment if 61194
issued prior to March 1, 2001, and as apportioned to the taxing 61195
district for tax year 2000; 61196

(b) The value of electric company tangible personal property 61197
as assessed by the tax commissioner for tax year 2001 on a 61198
preliminary assessment, or an amended preliminary assessment if 61199
issued prior to March 1, 2002, and as apportioned to the taxing 61200
district for tax year 2001. 61201

(E) Not later than January 1, 2002, the tax commissioner 61202
shall determine for each taxing district its natural gas company 61203
tax value loss, which is the sum of the amounts described in 61204
divisions (E)(1) and (2) of this section: 61205

(1) The difference obtained by subtracting the amount 61206
described in division (E)(1)(b) from the amount described in 61207
division (E)(1)(a) of this section. 61208

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner

shall determine for each school district, joint vocational school
district, and local taxing unit its fixed-rate levy loss, which is
the sum of its electric company tax value loss multiplied by the
tax rate in effect in tax year 1998 for fixed-rate levies and its
natural gas company tax value loss multiplied by the tax rate in
effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner
shall determine for each school district, joint vocational school
district, and local taxing unit its fixed-sum levy loss, which is
the amount obtained by subtracting the amount described in
division (H)(2) of this section from the amount described in
division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied
by the tax rate in effect in tax year 1998, and the natural gas
company tax value loss multiplied by the tax rate in effect in tax
year 1999, for fixed-sum levies for all taxing districts within
each school district, joint vocational school district, and local
taxing unit. For the years 2002 through 2006, this computation
shall include school district emergency levies that existed in
1998 in the case of the electric company tax value loss, and 1999
in the case of the natural gas company tax value loss, and all
other fixed-sum levies that existed in 1998 in the case of the
electric company tax value loss and 1999 in the case of the
natural gas company tax value loss and continue to be charged in
the tax year preceding the distribution year. For the years 2007
through 2016 in the case of school district emergency levies, and
for all years after 2006 in the case of all other fixed-sum
levies, this computation shall exclude all fixed-sum levies that
existed in 1998 in the case of the electric company tax value loss
and 1999 in the case of the natural gas company tax value loss,
but are no longer in effect in the tax year preceding the
distribution year. For the purposes of this section, an emergency

levy that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas

company tax value loss. 61304

(J) Not later than January 1, 2002, the tax commissioner 61305
shall certify to the department of education the tax value loss 61306
determined under divisions (D) and (E) of this section for each 61307
taxing district, the fixed-rate levy loss calculated under 61308
division (G) of this section, and the fixed-sum levy loss 61309
calculated under division (H) of this section. The calculations 61310
under divisions (G) and (H) of this section shall separately 61311
display the levy loss for each levy eligible for reimbursement. 61312

(K) Not later than September 1, 2001, the tax commissioner 61313
shall certify the amount of the fixed-sum levy loss to the county 61314
auditor of each county in which a school district with a fixed-sum 61315
levy loss has territory. 61316

Sec. 5727.85. (A) By the thirty-first day of July of each 61317
year, beginning in 2002 and ending in 2016, the department of 61318
education shall determine the following for each school district 61319
and each joint vocational school district eligible for payment 61320
under division (C) or (D) of this section: 61321

(1) The state education aid offset, which is the difference 61322
obtained by subtracting the amount described in division (A)(1)(b) 61323
of this section from the amount described in division (A)(1)(a) of 61324
this section: 61325

(a) The state education aid computed for the school district 61326
or joint vocational school district for the current fiscal year as 61327
of the thirty-first day of July; 61328

(b) The state education aid that would be computed for the 61329
school district or joint vocational school district for the 61330
current fiscal year as of the thirty-first day of July if the 61331
recognized valuation included the tax value loss for the school 61332
district or joint vocational school district. 61333

(2) The greater of zero or the difference obtained by 61334
subtracting the state education aid offset determined under 61335
division (A)(1) of this section from the fixed-rate levy loss 61336
certified under division (J) of section 5727.84 of the Revised 61337
Code for all taxing districts in each school district and joint 61338
vocational school district. 61339

By the fifth day of August of each such year, the department 61340
of education shall certify the amount so determined under division 61341
(A)(1) of this section to the director of budget and management. 61342

(B) Not later than the thirty-first day of October of the 61343
years 2006 through 2016, the department of education shall 61344
determine all of the following for each school district: 61345

(1) The amount obtained by subtracting the district's state 61346
education aid computed for fiscal year 2002 from the district's 61347
state education aid computed for the current fiscal year; 61348

(2) The inflation-adjusted property tax loss. The 61349
inflation-adjusted property tax loss equals the fixed-rate levy 61350
loss, excluding the tax loss from levies within the ten-mill 61351
limitation to pay debt charges, determined under division (G) of 61352
section 5727.84 of the Revised Code for all taxing districts in 61353
each school district, plus the product obtained by multiplying 61354
that loss by the cumulative percentage increase in the consumer 61355
price index from January 1, 2002, to the thirtieth day of June of 61356
the current year. 61357

(3) The difference obtained by subtracting the amount 61358
computed under division (B)(1) from the amount of the 61359
inflation-adjusted property tax loss. If this difference is zero 61360
or a negative number, no further payments shall be made under 61361
division (C) of this section to the school district from the 61362
school district property tax replacement fund. 61363

(C) The department of education shall pay from the school 61364

district property tax replacement fund to each school district all 61365
of the following: 61366

(1) In February 2002, one-half of the fixed-rate levy loss 61367
certified under division (J) of section 5727.84 of the Revised 61368
Code between the twenty-first and twenty-eighth days of February. 61369

(2) From August 2002 through August 2006, one-half of the 61370
amount calculated for that fiscal year under division (A)(2) of 61371
this section between the twenty-first and twenty-eighth days of 61372
August and of February. 61373

(3) From February 2007 through August 2016, one-half of the 61374
amount calculated for that calendar year under division (B)(3) of 61375
this section between the twenty-first and twenty-eighth days of 61376
August and of February. 61377

(4) For taxes levied within the ten-mill limitation for debt 61378
purposes in tax year 1998 in the case of electric company tax 61379
value losses, and in tax year 1999 in the case of natural gas 61380
company tax value losses, payments shall be made equal to one 61381
hundred per cent of the loss computed as if the tax were a 61382
fixed-rate levy, but those payments shall extend from fiscal year 61383
2006 through fiscal year 2016. 61384

The department of education shall report to each school 61385
district the apportionment of the payments among the school 61386
district's funds based on the certifications under division (J) of 61387
section 5727.84 of the Revised Code. 61388

(D) Not later than January 1, 2002, for all taxing districts 61389
in each joint vocational school district, the tax commissioner 61390
shall certify to the department of education the fixed-rate levy 61391
loss determined under division (G) of section 5727.84 of the 61392
Revised Code. From February 2002 to August 2016, the department 61393
shall pay from the school district property tax replacement fund 61394
to the joint vocational school district one-half of the amount 61395

calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

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(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

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(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

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(F) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill

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equalization fund. 61428

(G) Beginning in August 2002, and ending in ~~February~~ May 61429
2017, the director of budget and management shall transfer from 61430
the school district property tax replacement fund to the general 61431
revenue fund each of the following: 61432

(1) Between the twenty-eighth day of August and the fifth day 61433
of September, the lesser of one-half of the amount certified for 61434
that fiscal year under division (A)(2) of this section or the 61435
balance in the school district property tax replacement fund; 61436

(2) Between the first and fifth days of ~~March~~ May, the lesser 61437
of one-half of the amount certified for that fiscal year under 61438
division (A)(2) of this section or the balance in the school 61439
district property tax replacement fund. 61440

~~(G) By August 5, 2002, the tax commissioner shall estimate 61441
the amount of money in the school district property tax 61442
replacement fund in excess of the amount necessary to make 61443
payments under divisions (C), (D), (E), and (F) of this section. 61444
Notwithstanding division (C) of this section, the department of 61445
education, in consultation with the tax commissioner and from 61446
those excess funds, may pay any school district four and one half 61447
times the amount certified under division (A)(2) of this section. 61448
Payments shall be made in order from the smallest annual loss to 61449
the largest annual loss. A payment made under this division shall 61450
be in lieu of the payment to be made in August 2002 under division 61451
(C)(2) of this section. No payments shall be made in the manner 61452
established in this division to any school district with annual 61453
losses from permanent improvement fixed rate levies in excess of 61454
twenty thousand dollars, or annual losses from any other 61455
fixed rate levies in excess of twenty thousand dollars. A school 61456
district receiving a payment under this division is no longer 61457
entitled to any further payments under division (C) of this 61458
section. 61459~~

~~(H) On the thirty first day of July of 2003, 2004, 2005, and 2006, and on the thirty first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint vocational school district.~~

~~If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.~~

~~Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.~~

(H) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), and (G) of this section to the half-mill equalization fund created under section 3318.18 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 61491
the general revenue fund to the school district property tax 61492
replacement fund the difference between the total amount to be 61493
paid and the total amount in the school district property tax 61494
replacement fund, except that no transfer shall be made by reason 61495
of a deficiency to the extent that it results from the amendment 61496
of section 5727.84 of the Revised Code by Amended Substitute House 61497
Bill No. 95 of the 125th general assembly. 61498

(J) If all ~~or a part~~ of the territory of a school district or 61499
joint vocational school district is merged with an existing 61500
district, or if a part of the territory of a school district or 61501
joint vocational school district is transferred to another an 61502
existing or new district, the department of education, in 61503
consultation with the tax commissioner, shall adjust the payments 61504
made under this section ~~to each of the districts in proportion to~~ 61505
~~the tax value loss apportioned to the merged or transferred~~ 61506
~~territory as follows:~~ 61507

(1) For the merger of all of the territory of two or more 61508
districts, the fixed-rate levy loss and the fixed-sum levy loss of 61509
the successor district shall be equal to the sum of the fixed-rate 61510
levy losses and the fixed-sum levy losses for each of the 61511
districts involved in the merger. 61512

(2) For the transfer of a part of one district's territory to 61513
an existing district, the amount of the fixed-rate levy loss that 61514
is transferred to the recipient district shall be an amount equal 61515
to the transferring district's total fixed-rate levy loss times a 61516
fraction, the numerator of which is the value of electric company 61517
tangible personal property located in the part of the territory 61518
that was transferred, and the denominator of which is the total 61519
value of electric company tangible personal property located in 61520
the entire district from which the territory was transferred. The 61521
value of electric company tangible personal property under this 61522

division shall be determined for the most recent year for which 61523
data is available. Fixed-sum levy losses for both districts shall 61524
be determined under division (J)(4) of this section. 61525

(3) For the transfer of a part of the territory of one or 61526
more districts to create a new district: 61527

(a) If the new district is created on or after January 1, 61528
2000, but before January 1, 2005, the new district shall be paid 61529
its current fixed-rate levy loss through August 2006. From 61530
February 2007 to August 2016, the new district shall be paid the 61531
lesser of: (i) the amount calculated under division (B) of this 61532
section or (ii) an amount determined under the schedule in 61533
division (A)(1) of section 5727.86 of the Revised Code, as if for 61534
this purpose the new district was a local taxing unit under that 61535
section. Fixed-sum levy losses for the districts shall be 61536
determined under division (J)(4) of this section. 61537

(b) If the new district is created on or after January 1, 61538
2005, the new district shall be deemed not to have any fixed-rate 61539
levy loss or, except as provided in division (J)(4) of this 61540
section, fixed-sum levy loss. The district or districts from which 61541
the territory was transferred shall have no reduction in their 61542
fixed-rate levy loss, or, except as provided in division (J)(4) of 61543
this section, their fixed-sum levy loss. 61544

(4) If a recipient district under division (J)(2) of this 61545
section or a new district under division (J)(3)(a) or (b) of this 61546
section takes on debt from one or more of the districts from which 61547
territory was transferred, and any of the districts transferring 61548
the territory had fixed-sum levy losses, the department of 61549
education, in consultation with the tax commissioner, shall make 61550
an equitable division of the fixed-sum levy losses. 61551

(K) There is hereby created the public utility property tax 61552
study committee, effective January 1, 2011. The committee shall 61553

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
appointments shall be made not later than January 31, 2011. The
tax commissioner shall be the chairperson of the committee.

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The committee shall study the extent to which each school
district or joint vocational school district has been compensated,
under sections 5727.84 and 5727.85 of the Revised Code as enacted
by Substitute Senate Bill No. 3 of the 123rd general assembly and
any subsequent acts, for the property tax loss caused by the
reduction in the assessment rates for natural gas, electric, and
rural electric company tangible personal property. Not later than
June 30, 2011, the committee shall issue a report of its findings,
including any recommendations for providing additional
compensation for the property tax loss or regarding remedial
legislation, to the president of the senate and the speaker of the
house of representatives, at which time the committee shall cease
to exist.

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The department of taxation and department of education shall
provide such information and assistance as is required for the
committee to carry out its duties.

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Sec. 5727.99. (A) Whoever violates section 5727.55 of the
Revised Code ~~shall be fined not less than one hundred nor more
than one thousand dollars~~ is guilty of a misdemeanor of the third
degree.

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(B) Whoever violates section 5727.71 of the Revised Code
~~shall be fined not more than five hundred dollars and imprisoned
not more than thirty days~~ is guilty of a misdemeanor of the fourth
degree.

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(C) Whoever violates section 5727.72 of the Revised Code 61584
~~shall be fined not more than five hundred dollars or imprisoned~~ 61585
~~not more than thirty days, or both~~ is guilty of a misdemeanor of 61586
the third degree. 61587

(D) Whoever violates sections 5727.80 to 5727.83, or sections 61588
5727.88 to 5727.95 of the Revised Code or any rule adopted by the 61589
tax commissioner under those sections, is guilty of a misdemeanor 61590
of the first degree ~~on the first offense; on each subsequent.~~ If 61591
the person previously has been convicted of any offense under 61592
Title LVII of the Revised Code, the person is guilty of a felony 61593
of the fourth degree. 61594

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the 61595
Revised Code: 61596

(A) "Motor vehicle" means everything on wheels that is 61597
self-propelled, other than by muscular power or power collected 61598
from electric trolley wires and other than vehicles or machinery 61599
not designed for or employed in general highway transportation, 61600
used to transport or propel persons or property over a public 61601
highway. 61602

(B) "Commercial car" means any motor vehicle used for 61603
transporting persons or property, wholly on its own structure on a 61604
public highway. 61605

(C) "Commercial tractor" means any motor vehicle designed and 61606
used to propel or draw a trailer or semi-trailer or both on a 61607
public highway without having any provision for carrying loads 61608
independently of such trailer or semi-trailer. 61609

(D) "Trailer" means everything on wheels that is not 61610
self-propelled, except vehicles or machinery not designed for or 61611
employed in general highway transportation, used for carrying 61612
property wholly on its own structure and for being drawn by a 61613

motor vehicle on a public highway, including any such vehicle when
formed by or operated as a combination of a semi-trailer and a
vehicle of the dolly type such as that commonly known as a trailer
dolly. "Trailer" does not include manufactured homes as defined in
division (C)(4) of section 3781.06 of the Revised Code or mobile
homes as defined in division (O) of section 4501.01 of the Revised
Code.

(E) "Semi-trailer" means everything on wheels that is not
self-propelled, except vehicles or machinery not designed for or
employed in general highway transportation, designed and used for
carrying property on a public highway when being propelled or
drawn by a commercial tractor when part of its own weight or the
weight of its load, or both, rest upon and is carried by a
commercial tractor.

(F) "Commercial tandem" means any commercial car and trailer
or any commercial tractor, semi-trailer, and trailer when fastened
together and used as one unit.

(G) "Commercial tractor combination" means any commercial
tractor and semi-trailer when fastened together and used as one
unit.

(H) "Axle" means two or more load carrying wheels mounted in
a single transverse vertical plane.

(I) "Public highway" means any highway, road, or street
dedicated to public use, including a highway under the control and
jurisdiction of the Ohio turnpike commission created by the
provisions of section 5537.02 of the Revised Code and land and
lots over which the public, either as user or owner, generally has
a right to pass even though such land or lots are closed
temporarily by public authorities for the purpose of construction,
reconstruction, maintenance, or repair.

(J) "Jurisdiction" means a state of the United States, the

District of Columbia, or a province or territory of Canada.

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Sec. 5728.02. (A) Except as provided in section 5728.03 of the Revised Code, every person who is liable for the tax imposed by section 5728.06 of the Revised Code on the operation of a commercial car ~~with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty six thousand pounds,~~ or a commercial tractor that is, or is to be, operated or driven upon a public highway in two or more jurisdictions shall cause to be filed annually with the tax commissioner ~~a written~~ an application for a fuel use permit ~~on blank forms~~ to be furnished by the commissioner for that purpose.

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Each application for a fuel use permit for a commercial car or a commercial tractor shall contain any information the tax commissioner prescribes.

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(B) Upon receipt of the application, the tax commissioner shall issue to the person making the application a fuel use permit and any identification device that the commissioner considers necessary for the proper administration of this chapter. The permit and the identification device shall be of a design and contain any information the commissioner considers necessary. The identification device shall be displayed on the commercial car or commercial tractor for which it was issued at all times in the manner the commissioner prescribes. The fuel use permits and the identification device shall not be transferable. In case of the loss of a fuel use permit or identification device, the commissioner shall issue a duplicate of the permit or device.

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The fuel use permit shall be valid until it expires or is suspended or surrendered.

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Sec. 5728.03. (A) In lieu of filing an application for an 61675
annual fuel use permit under section 5728.02 of the Revised Code 61676
and in lieu of filing returns under section 5728.08 of the Revised 61677
Code, a person who is the owner of a commercial car ~~with three or~~ 61678
~~more axles when operated alone or as part of a commercial tandem,~~ 61679
~~a commercial car with two axles that is to be operated as part of~~ 61680
~~a commercial tandem with a gross vehicle weight or a registered~~ 61681
~~gross vehicle weight exceeding twenty six thousand pounds,~~ or a 61682
commercial tractor that would otherwise be liable for the tax 61683
imposed by section 5728.06 of the Revised Code, that is, or is to 61684
be, operated or driven upon a public highway, may file an 61685
application with the tax commissioner for a single-trip fuel use 61686
permit. The application shall be based on rules adopted by the tax 61687
commissioner and shall include an amount estimated to be 61688
substantially equivalent to the fuel use tax liability that the 61689
applicant will incur by driving on the highways of this state 61690
during the period covered by the single-trip permit. The amount so 61691
estimated shall be considered to be the fuel use tax liability so 61692
incurred. 61693

The commissioner may authorize independent permit services or 61694
other persons to issue single-trip fuel use permits. 61695

(B) The tax commissioner shall adopt rules establishing all 61696
of the following: 61697

(1) Procedures for the issuance of single-trip permits; 61698

(2) The length of time the permits are effective; 61699

(3) Requirements that independent permit services or other 61700
persons must meet to be authorized to issue single-trip fuel use 61701
permits and procedures for obtaining that authorization; 61702

(4) Estimates of the amount substantially equivalent to the 61703
fuel use tax liability that an applicant will incur by driving on 61704

the highways of this state during the period covered by the
permit.

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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.

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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.

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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:

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(1) Without a fuel use permit or single trip fuel use permit
for such commercial car or commercial tractor.

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(2) With a suspended or surrendered fuel use permit for such
commercial car or commercial tractor.

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(B) The judge or magistrate of any court finding any person
guilty of unlawfully operating a commercial car or commercial
tractor as provided for in this section shall immediately notify
the tax commissioner of such violation and shall transmit to the
tax commissioner the name and the permanent address of the owner
of the commercial car or commercial tractor operated in violation
of this section, the registration number, the state of

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registration, and the certificate of title number of the 61735
commercial car or commercial tractor. The commercial car or 61736
commercial tractor involved in a violation of division (A)(1) or 61737
(2) of this section may be detained until a valid fuel use permit 61738
is obtained or reinstated. 61739

Sec. 5728.06. (A) For the following purposes, an excise tax 61740
is hereby imposed on the use of motor fuel to operate on the 61741
public highways of this state a commercial car with three or more 61742
axles, regardless of weight, operated alone or as part of a 61743
commercial tandem, a commercial car with two axles ~~operated as~~ 61744
~~part of a commercial tandem~~ having a gross vehicle weight or 61745
registered gross vehicle weight exceeding twenty-six thousand 61746
pounds operated alone or as part of a commercial tandem, or a 61747
commercial tractor operated alone or as part of a commercial 61748
tractor combination or commercial tandem: to provide revenue for 61749
maintaining the state highway system, to widen existing surfaces 61750
on such highways, to resurface such highways, to enable the 61751
counties of the state properly to plan for, maintain, and repair 61752
their roads, to enable the municipal corporations to plan, 61753
construct, reconstruct, repave, widen, maintain, repair, clear, 61754
and clean public highways, roads, and streets; to pay that portion 61755
of the construction cost of a highway project that a county, 61756
township, or municipal corporation normally would be required to 61757
pay, but that the director of transportation, pursuant to division 61758
(B) of section 5531.08 of the Revised Code, determines instead 61759
will be paid from moneys in the highway operating fund; to 61760
maintain and repair bridges and viaducts; to purchase, erect, and 61761
maintain street and traffic signs and markers; to purchase, erect, 61762
and maintain traffic lights and signals; to pay the costs 61763
apportioned to the public under section 4907.47 of the Revised 61764
Code; and to supplement revenue already available for such 61765
purposes, to distribute equitably among those persons using the 61766

privilege of driving motor vehicles upon such highways and streets 61767
the cost of maintaining and repairing the same, and to pay the 61768
interest, principal, and charges on bonds and other obligations 61769
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 61770
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 61771
imposed in the same amount as the motor fuel tax imposed under 61772
Chapter 5735. of the Revised Code plus an additional tax of three 61773
cents per gallon of motor fuel used before July 1, 2004, provided 61774
that the additional tax shall be reduced to two cents per gallon 61775
of motor fuel used from July 1, 2004 through June 30, 2005, as 61776
determined by the gallons consumed while operated on the public 61777
highways of this state. Subject to section 5735.292 of the Revised 61778
Code, on and after July 1, 2005, the tax shall be imposed in the 61779
same amount as the motor fuel tax imposed under Chapter 5735. of 61780
the Revised Code. Payment of the fuel use tax shall be made by the 61781
purchase ~~of motor fuel~~ within Ohio of such gallons of motor fuel, 61782
for which the tax imposed under Chapter 5735. of the Revised Code 61783
has been paid, as is equivalent to the gallons consumed while 61784
operating such a motor vehicle on the public highways of this 61785
state, or by direct remittance to the treasurer of state with the 61786
fuel use tax return filed pursuant to section 5728.08 of the 61787
Revised Code. 61788

Any person subject to the tax imposed under this section who 61789
purchases motor fuel in this state for use in another state in 61790
excess of the amount consumed while operating such motor vehicle 61791
on the public highways of this state shall be allowed a credit 61792
against the tax imposed by this section or a refund equal to the 61793
motor fuel tax paid to this state on such excess. No such credit 61794
or refund shall be allowed for taxes paid to any state that 61795
imposes a tax on motor fuel purchased or obtained in this state 61796
and used on the highways of such other state but does not allow a 61797
similar credit or refund for the tax paid to this state on motor 61798
fuel purchased or acquired in the other state and used on the 61799

public highways of this state. 61800

The tax commissioner is authorized to determine whether such 61801
credits or refunds are available and to prescribe such rules as 61802
are required for the purpose of administering this chapter. 61803

(B) Within sixty days after the last day of each month, the 61804
tax commissioner shall determine the amount of motor fuel tax 61805
allowed as a credit against the tax imposed by this section. The 61806
commissioner shall certify the amount to the director of budget 61807
and management and the treasurer of state, who shall credit the 61808
amount in accordance with section 5728.08 of the Revised Code from 61809
current revenue arising from the tax levied by section 5735.05 of 61810
the Revised Code. 61811

(C) The owner of each commercial car and commercial tractor 61812
subject to sections 5728.01 to 5728.14 of the Revised Code is 61813
liable for the payment of the full amount of the taxes imposed by 61814
this section. 61815

An owner who is a person regularly engaged, for compensation, 61816
in the business of leasing or renting motor vehicles without 61817
furnishing drivers may designate that the lessee of a motor 61818
vehicle leased for a period of thirty days or more shall report 61819
and pay the tax incurred during the duration of the lease. An 61820
owner who is an independent contractor that furnishes both the 61821
driver and motor vehicle, may designate that the person so 61822
furnished with the driver and motor vehicle for a period of thirty 61823
days or more shall report and pay the tax incurred during that 61824
period. An independent contractor that is not an owner, but that 61825
furnishes both the driver and motor vehicle and that has been 61826
designated by the owner of the motor vehicle to report and pay the 61827
tax, may designate that the person so furnished with driver and 61828
motor vehicle for a period of thirty days or more shall report and 61829
pay the tax incurred during that period. 61830

Sec. 5728.08. Except as provided in section 5728.03 of the 61831
Revised Code and except as otherwise provided in ~~this division (A)~~ 61832
of section 5728.06 of the Revised Code, whoever is liable for the 61833
payment of the tax levied by section 5728.06 of the Revised Code, 61834
on or before the last day of each January, April, July, and 61835
October, shall file with the tax commissioner, on forms prescribed 61836
by the commissioner, a fuel use tax return and make payment of the 61837
full amount of the tax due for the operation of each commercial 61838
car and commercial tractor for the preceding three calendar 61839
months. ~~If the commercial cars or commercial tractors are farm~~ 61840
~~trucks and the amount of motor fuel used to operate the trucks~~ 61841
~~during the preceding twelve calendar months was less than fifteen~~ 61842
~~thousand gallons, the fuel use tax return shall be filed and the~~ 61843
~~full amount of tax due paid on or before the last day of each July~~ 61844
~~for the preceding twelve calendar months. If the commercial cars~~ 61845
~~or commercial tractors are farm trucks and the amount of motor~~ 61846
~~fuel used to operate the trucks during the preceding twelve~~ 61847
~~calendar months was fifteen thousand gallons or more, the fuel use~~ 61848
~~tax return shall be filed and the full amount of the tax due paid~~ 61849
~~either on or before the last day of each July for the preceding~~ 61850
~~twelve calendar months, or on or before the last day of each~~ 61851
~~January, April, July, and October for the preceding three calendar~~ 61852
~~months, at the option of the person liable for payment of the tax.~~ 61853
~~If the commercial cars or commercial tractors are not farm trucks,~~ 61854
~~and if, in the estimation of the commissioner, the amount of the~~ 61855
~~tax due does not warrant quarterly filing, the commissioner may~~ 61856
~~authorize the filing of the fuel use tax return and payment of the~~ 61857
~~full amount due on or before the last day of each July for the~~ 61858
~~preceding twelve months.~~ 61859

The commissioner shall immediately forward to the treasurer 61860
of state all money received from the tax levied by section 5728.06 61861
of the Revised Code. 61862

The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the taxes levied by section 5728.06 of the Revised Code, amounts equal to the refund certified by the tax commissioner pursuant to section 5728.061 of the Revised Code. Receipts from the tax shall be used by the commissioner to defray expenses incurred by the department of taxation in administering sections 5728.01 to 5728.14 of the Revised Code.

All moneys received in the state treasury from taxes levied by section 5728.06 of the Revised Code 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, during each calendar year, be credited to the highway improvement bond retirement fund created by section 5528.12 of the Revised Code until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.17 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year and during the following calendar year. From the date of the receipt of the certification required by section 5528.17 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which the certification is made, all moneys received in the state treasury from taxes levied under section 5728.06 of the Revised Code 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 credited to the highway obligations bond retirement fund created by section 5528.32 of the

Revised Code until the commissioners of the sinking fund certify
to the treasurer of state, as required by section 5528.38 of the
Revised Code, that there are sufficient moneys to the credit of
the highway obligations bond retirement fund to meet in full all
payments of interest, principal, and charges for the retirement of
bonds and other obligations issued pursuant to Section 2i of
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31
of the Revised Code due and payable during the current calendar
year and during the following calendar year. From the date of the
receipt of the certification required by section 5528.38 of the
Revised Code by the treasurer of state until the thirty-first day
of December of the calendar year in which the certification is
made, all moneys received in the state treasury from taxes levied
under section 5728.06 of the Revised Code 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 credited to the highway operating fund created by
section 5735.291 of the Revised Code, except as provided by the
following paragraph of this section.

From the date of the receipt by the treasurer of state of
certifications from the commissioners of the sinking fund, as
required by sections 5528.18 and 5528.39 of the Revised Code,
certifying that the moneys to the credit of the highway
improvement bond retirement fund are sufficient to meet in full
all payments of interest, principal, and charges for the
retirement of all bonds and other obligations that may be issued
pursuant to Section 2g of Article VIII, Ohio Constitution, and
sections 5528.10 and 5528.11 of the Revised Code, and to the
credit of the highway obligations bond retirement fund are
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
ear or commercial tractor that is registered as a farm truck under
Chapter 4503. of the Revised Code.~~

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of
this section, whoever violates any provision of sections 5728.01
to 5728.14 of the Revised Code, or any rule promulgated by the tax
commissioner under the authority of any provision of those
sections, for the violation of which no penalty is provided
elsewhere, ~~shall be fined not less than twenty five nor more than
one hundred dollars~~ is guilty of a misdemeanor of the fourth
degree.

(2) Division (A)(1) of this section does not apply to the
filing of any false or fraudulent return, application, or permit
under section 5728.02, 5728.03, or 5728.08 of the Revised Code.
The filing of any false or fraudulent return, application, or
permit under any of those sections is a violation of section
2921.13 of the Revised Code.

(B)(1) Whoever violates division (A)(1) of section 5728.04 of
the Revised Code is guilty of a misdemeanor of the ~~fourth~~ third
degree.

(2) Whoever violates division (A)(2) of section 5728.04 of
the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 5729.032. A refundable credit granted by the tax credit
authority under section 122.17 of the Revised Code may be claimed

against the tax imposed by section 5729.03 of the Revised Code. 61957

Sec. 5729.08. (A) As used in this section, "tax otherwise 61958
due" means the tax imposed on a foreign insurance company under 61959
section 5729.03 of the Revised Code reduced by the total amount of 61960
all other nonrefundable credits, if any, that the foreign 61961
insurance company is entitled to claim. 61962

(B) Upon the issuance of a tax credit certificate by the Ohio 61963
venture capital authority under section 150.07 of the Revised 61964
Code, a credit may be claimed against the tax imposed on a foreign 61965
insurance company under section 5729.03 of the Revised Code. The 61966
credit shall be claimed in the calendar year specified in the 61967
certificate issued by the authority. 61968

(C) If the company elected a refundable credit under section 61969
150.07 of the Revised Code and if the amount of the credit shown 61970
on the certificate does not exceed the tax otherwise due, then for 61971
the calendar year the company shall claim a refundable credit 61972
equal to the amount of the credit shown on the certificate. 61973

(D) If the company elected a refundable credit under section 61974
150.07 of the Revised Code, and the amount of the credit shown on 61975
the certificate exceeds the tax otherwise due ~~under section~~ 61976
~~5729.03 of the Revised Code, than for the calendar year~~ the 61977
~~company may receive a refund equal to seventy five per cent of~~ 61978
~~such excess. If shall claim a refundable credit equal to the sum~~ 61979
~~of the following:~~ 61980

(1) The amount, if any, of the tax otherwise due; 61981

(2) Seventy-five per cent of the difference between the 61982
amount of the refundable credit shown on the certificate and the 61983
tax otherwise due. 61984

(E) If the company elected a nonrefundable credit, the amount 61985

of the credit shown on the certificate shall not exceed the amount 61986
of tax otherwise due. If the company elected a nonrefundable 61987
credit and the credit to which the company would otherwise be 61988
entitled under this section for any calendar year is greater than 61989
the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ 61990
the excess shall be allowed as a nonrefundable credit in each of 61991
the ensuing ten calendar years, but the amount of any excess 61992
credit allowed in the ensuing calendar year shall be deducted from 61993
the balance carried forward to the next calendar year. 61994

Sec. 5731.01. As used in this chapter: 61995

(A) The "value of the gross estate" of the decedent shall 61996
include, to the extent provided in sections 5731.03 to 5731.131 of 61997
the Revised Code, the value, on the ~~dae~~ date of the decedent's 61998
death or on an alternate valuation date prescribed by division (D) 61999
of this section, of all property, real or personal, tangible or 62000
intangible, wherever situated, except real property situated and 62001
tangible personal property having an actual situs outside of this 62002
state. 62003

(B) Subject to the provisions of section 5731.011 of the 62004
Revised Code that permit a valuation of qualified farm property at 62005
its value for its actual qualified use, the value of any property 62006
included in the gross estate shall be the price at which such 62007
property would change hands between a willing buyer and a willing 62008
seller, neither being under any compulsion to buy or sell and both 62009
having reasonable knowledge of relevant facts. All relevant facts 62010
and elements of value as of the valuation date shall be considered 62011
in determining such value. 62012

The rulings and regulations of the internal revenue service 62013
and decisions of the federal courts defining the principles 62014
applicable in determining fair market value for purposes of the 62015
federal estate tax imposed by Subchapter A, Chapter 11 of the 62016

Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended,~~ shall
be applied in determining fair market value for purposes of the
estate taxes imposed by this chapter, to the extent that these
rulings, regulations, and decisions are not inconsistent with the
express provisions of this chapter, but the actual determination
of the fair market value by the internal revenue service of any
asset included in the gross estate is not controlling for purposes
of the estate taxes imposed by this chapter, unless the person
filing the estate tax return and the tax commissioner have agreed
in writing to be bound by the federal determination, as provided
in section 5731.26 of the Revised Code.

(C) In the case of stock and securities of a corporation the
value of which, by reason of their not being listed on an exchange
and by reason of the absence of sales of them, cannot be
determined with reference to bid and asked prices, or with
reference to sales prices, the value of them shall be determined
by taking into consideration, in addition to all other factors,
the value of stock or securities of corporations engaged in the
same or a similar line of business which are listed on an exchange
or which are traded actively in the over-the-counter market.

If a valuation of securities is undertaken by reference to
market transactions and if the block of securities to be valued is
so large in relation to actual sales on existing markets that it
could not be liquidated in a reasonable time without depressing
the market, the price at which the block could be sold, as such,
outside the usual market, as through an underwriter, shall be
considered in determining the value of such block of securities.

(D) "Alternate valuation date" means the date for valuation
of a gross estate permitted by filing an election under this
division. Whether or not an alternate valuation date election is
available to an estate for federal estate tax purposes or, if
available, is made for the estate, the value of the gross estate

may be determined, if the person required to file the estate tax
return so elects, by valuing all the property included in the
gross estate on the alternate date, if any, provided in section
2032 (a) of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2032(a),~~
~~as amended~~ as such section generally applies, for federal estate
tax purposes, to the estates of persons dying on the decedent's
date of death.

No deduction under this chapter of any item shall be allowed
if allowance is, in effect, given by use of the alternate
valuation date. In the determination of any tax liability of any
estate in which an election is filed under this division, all
provisions in this chapter ~~which~~ that refer to value at the time
of the decedent's death shall be construed for all purposes to
mean the value of such property used in determining the value of
the gross estate. For the purposes of the charitable deduction
under section 5731.17 of the Revised Code, any bequest, legacy,
devise, or transfer enumerated in it shall be valued as of the
date of the decedent's death with adjustment for any difference in
value, not due to mere lapse of time or the occurrence or
nonoccurrence of a contingency, of the property as of the date six
months after the decedent's death, or in case of its earlier
disposition, on such date of disposition.

An election under this division shall be exercised on the
estate tax return by the person required to file the return. When
made, an election under this division is irrevocable. An election
cannot be exercised under this division if a return is filed more
than one year after the time prescribed, including any extensions
of time granted, pursuant to law for filing the return.

(E) Unless otherwise indicated by the context, "county" means
one of the following:

(1) The county in which the decedent's estate is

administered; 62080

(2) If no administration of the decedent's estate is being 62081
had, the county of residence of the decedent at the time of ~~his~~ 62082
death; 62083

(3) If the decedent dies a resident of another state, any 62084
county in which any property subject to tax is located. 62085

(F) "Internal Revenue Code" means the "Internal Revenue Code 62086
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 62087

Sec. 5731.05. (A) Except as provided in divisions (B) and (C) 62088
of this section, the value of the gross estate shall include the 62089
value of all property, to the extent of any interest in property, 62090
of which the decedent has at any time made a transfer, by trust or 62091
otherwise, in contemplation of ~~his~~ death. 62092

(B) Any transfer, except as provided in division (C) of this 62093
section, by trust or otherwise, made within a period of three 62094
years ending with the date of the decedent's death shall be deemed 62095
to have been made in contemplation of death, unless the contrary 62096
is shown. No transfer made before that three-year period shall be 62097
treated as having been made in contemplation of death. 62098

(C) This section does not apply to any of the following: 62099

(1) A bona fide sale for an adequate and full consideration 62100
in money or money's worth; 62101

(2) A transfer of property that would not be included in the 62102
decedent's gross estate if retained by ~~him~~ the decedent until 62103
death; 62104

(3) The first ten thousand dollars of the transfers that were 62105
made by the decedent to each transferee, other than the spouse of 62106
the decedent, in each calendar year, but only to the extent that 62107
those transfers qualify as present interests under section 2503(b) 62108

and (c) of the "Internal Revenue Code of 1986," 26 U.S.C. 2503, as amended. The exclusion provided by division (C)(3) of this section does not apply to any portion of a transfer that is treated as being made by the spouse of the decedent under section 2513 of the "Internal Revenue Code of 1986," 26 U.S.C. 2513, as amended.

(4) A transfer of property made to the spouse of the transferor, except as provided in section 5731.131 of the Revised Code;

(5) Federal or state gift taxes paid with respect to any includible transfer.

~~(D) The amendments made to this section by Amended Substitute House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th general assembly that are effective on July 1, 1993, shall apply only to the estates of decedents who die on or after that date.~~

Sec. 5731.131. ~~(A)~~ The value of the gross estate shall include the value of any property in which the decedent had an income interest for life as follows:

~~(1)~~(A) If a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2523(f) of the "Internal Revenue Code of 1986," 26 U.S.C. 2523(f), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(2)~~(B) If the decedent's predeceasing spouse was not a resident of this state at the time of his death and if a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2056(b)(7) of the "Internal Revenue Code of 1986," 26 U.S.C. 2056(b)(7), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(3)~~(C) If the decedent's predeceasing spouse died prior to

July 1, 1993, and if a marital deduction was allowed with respect 62139
to the transfer of such property to the decedent under division 62140
(A)(1) of section 5731.15 of the Revised Code as it existed prior 62141
to July 1, 1993, in connection with the determination of the value 62142
of the taxable estate of the decedent's predeceasing spouse; 62143

~~(4)(D)~~ If a qualified terminable interest property deduction 62144
was allowed with respect to the transfer of such property to the 62145
decedent under division (B) of section 5731.15 of the Revised 62146
Code, in connection with the determination of the value of the 62147
taxable estate of the decedent's predeceasing spouse. 62148

~~(B) The amendments made to this section by Amended Substitute 62149
House Bill No. 111 and substitute Senate Bill No. 336 of the 118th 62150
general assembly that are effective on July 1, 1993, shall apply 62151
only to the estates of decedents who die on or after that date. 62152~~

Sec. 5731.14. For purposes of the tax levied by section 62153
5731.02 of the Revised Code, the value of the taxable estate shall 62154
be determined by deducting from the value of the gross estate 62155
deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ 62156
of the Revised Code. 62157

Sec. 5731.18. (A) In addition to the tax levied by section 62158
5731.02 of the Revised Code, a tax is hereby levied upon the 62159
transfer of the estate of every person dying on or after July 1, 62160
1968, who, at the time of ~~his~~ death was a resident of this state, 62161
in an amount equal to the maximum credit allowable by subtitle B, 62162
~~chapter~~ Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C.~~ 62163
~~2011, as amended~~, for any taxes paid to any state. 62164

(B) The tax levied on any estate under this section shall be 62165
credited with the amount of the tax levied under section 5731.02 62166
of the Revised Code and with the amount of any estate, 62167
inheritance, legacy, or succession taxes actually paid to any 62168

state or territory of the United States or to the District of
Columbia on any property included in the decedent's gross estate
for federal estate tax purposes.

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(C) The additional tax levied under this section shall be
administered, collected, and paid as provided in section 5731.24
of the Revised Code.

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Sec. 5731.181. (A) For purposes of this section,
"generation-skipping transfer," "taxable distribution," and
"taxable termination" have the same meaning as in Chapter 13 of
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~
~~26 U.S.C. 2601-2624, as amended.~~

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(B) A tax is hereby levied upon every generation-skipping
transfer of property having a situs in this state, that occurs at
the same time as, and as a result of, the death of an individual,
in an amount equal to the credit allowed by Chapter 13 of subtitle
B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718, 26 U.S.C.~~
~~2601-2624, as amended,~~ for any taxes paid to any state in respect
of any property included in the generation-skipping transfer.

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For purposes of this division, "property having a situs in
this state" includes all the following:

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(1) Real property situated in this state;

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(2) Tangible personal property having an actual situs in this
state;

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(3) Intangible personal property employed in carrying on a
business in this state;

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(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.

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(C) The return with respect to the generation-skipping tax 62198
levied by division (B) of this section shall be filed in the form 62199
that the tax commissioner shall prescribe, on or before the day 62200
prescribed by law, including extensions, for filing the 62201
generation-skipping transfer tax return under Chapter 13 of 62202
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ 62203
~~26 U.S.C. 2601-2624, as amended,~~ for the same generation-skipping 62204
transfer. The return shall be filed by the distributee in the case 62205
of a taxable distribution and by the trustee in the case of a 62206
taxable termination. 62207

(D) The generation-skipping tax levied by division (B) of 62208
this section shall be paid, without notice or demand by the tax 62209
commissioner, with the return, and shall be charged, collected, 62210
and administered in the same manner as estate taxes levied by this 62211
chapter. This chapter is generally applicable to, except to the 62212
extent it is inconsistent with the nature of, the 62213
generation-skipping tax. 62214

(E) If another state levies a generation-skipping tax on a 62215
transfer described in division (B) of this section, the tax 62216
commissioner may enter into a compromise of the 62217
generation-skipping tax levied by division (B) of this section in 62218
the manner provided in section 5731.35 of the Revised Code, except 62219
that no approval of any probate court is required. If such a 62220
compromise agreement is made, no interest and penalties shall 62221
accrue for the period prior to the execution of the agreement and 62222
for sixty days after its execution. 62223

Sec. 5731.22. If the executor, administrator, or other person 62224
required to file a return fails to file the return required by 62225
this chapter or to pay the tax due under this chapter on or before 62226
the date prescribed therefor, determined with regard to any 62227
extension of time for filing or payment, ~~unless it is shown that~~ 62228

~~such failure is due to reasonable cause and not due to willful~~ 62229
~~neglect, there shall be added~~ the tax commissioner may add to the 62230
amount of tax as finally determined a penalty ~~determined by the~~ 62231
~~tax commissioner, in the amount~~ of five up to fifteen per cent of 62232
the amount of ~~that tax if the failure is not for more than one~~ 62233
~~month, or, if the failure is for more than one month, in the~~ 62234
~~amount of five per cent of the amount of that tax plus an~~ 62235
~~additional five per cent for each additional month or fraction of~~ 62236
~~a month during which the failure continues, not exceeding~~ 62237
~~twenty five per cent in the aggregate. If, due to fraud, there is~~ 62238
~~a failure to file the return or an underpayment of tax due under~~ 62239
~~this chapter, there shall be added to the amount of tax as finally~~ 62240
~~determined a penalty determined by the tax commissioner, in an~~ 62241
~~amount not to exceed ten thousand dollars~~ the tax due and unpaid. 62242
The ~~penalties~~ penalty imposed by this section shall be collected 62243
~~at the same time and~~ in the same manner as the tax itself. 62244

The ~~penalties~~ penalty shall be charged against the executor, 62245
administrator, or other person having custody or control of any 62246
property the transfer of which is subject to estate tax, and such 62247
executor, administrator, or other person is personally liable for 62248
the ~~penalties~~. ~~Such penalties~~ penalty. The penalty shall be 62249
divided in the same manner prescribed for the division of the tax 62250
in sections 5731.50 and 5731.51 of the Revised Code. 62251

Sec. 5731.23. (A) Subject to division (A) of section 5731.25 62252
of the Revised Code or any other statute extending the time for 62253
payment of an estate tax, the tax levied by section 5731.02 and 62254
division (A) of section 5731.19 of the Revised Code shall, without 62255
notice or demand by the tax commissioner, be due and payable by 62256
the person liable for it, at the expiration of nine months from 62257
the date of the decedent's death, to the treasurer of the county. 62258
If any amount of tax levied by section 5731.02 or division (A) of 62259
section 5731.19 of the Revised Code is not paid on or before nine 62260

months from the date of the decedent's death, interest on such 62261
amount shall be paid for the period from such date to the date 62262
paid, computed at the rate ~~per annum prescribed by~~ determined by 62263
the tax commissioner under division (B) of section 5703.47 of the 62264
Revised Code. Interest at the same rate shall be paid on any 62265
amount of tax determined to be due by way of deficiency from nine 62266
months from the date of the decedent's death to the date of 62267
payment thereof. Such interest shall be charged and collected in 62268
the same manner as the tax. 62269

(B) Interest computed at the rate ~~per annum prescribed by~~ 62270
described in division (C) of section 5703.47 of the Revised Code 62271
shall be allowed and paid upon any overpayment of tax levied by 62272
section 5731.02 or division (A) of section 5731.19 of the Revised 62273
Code from nine months from the date of the decedent's death or the 62274
date of payment of the tax, whichever is later, to the date such 62275
overpayment is repaid. Such payment may be made upon an estimated 62276
basis whether or not a return is filed, and shall be charged and 62277
collected in the same manner as provided in section 5731.21 of the 62278
Revised Code. 62279

(C) At any time after nine months from the date of the 62280
decedent's death, payment of an estimated deficiency may be made 62281
and shall be credited against any deficiency of tax finally 62282
determined. Interest on any deficiency ultimately determined to be 62283
due shall be charged only upon the unpaid portion thereof. 62284

Sec. 5731.39. (A) No corporation organized or existing under 62285
the laws of this state shall transfer on its books or issue a new 62286
certificate for any share of its capital stock registered in the 62287
name of a decedent, or in trust for a decedent, or in the name of 62288
a decedent and another person or persons, without the written 62289
consent of the tax commissioner. 62290

(B) No safe deposit company, trust company, financial 62291

institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension or profit sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which 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;
provided, however, that a safe deposit company, financial
institution, or other corporation or person having possession or
control of a safe deposit box may deliver wills, deeds to burial
lots, and insurance policies to a representative of the decedent,
but that a representative of the safe deposit company, financial
institution, or other corporation or person must supervise the

opening of the box and make a written record of the wills, deeds, 62356
and policies removed. Such written record shall be included in the 62357
tax commissioner's inventory records. 62358

(G) Notwithstanding any provision of this section: 62359

(1) The tax commissioner may authorize any delivery or 62360
transfer or waive any of the foregoing requirements under such 62361
terms and conditions as the commissioner may prescribe; 62362

(2) An adult care facility, as defined in section 3722.01 of 62363
the Revised Code, or a home, as defined in section 3721.10 of the 62364
Revised Code, may transfer or use the money in a personal needs 62365
allowance account in accordance with section ~~5111.112~~ 5111.113 of 62366
the Revised Code without the written consent of the tax 62367
commissioner, and without the account having been opened and 62368
inventoried in the presence of the commissioner or the 62369
commissioner's agent. 62370

Failure to comply with this section shall render such safe 62371
deposit company, trust company, life insurance company, financial 62372
institution as defined in division (A) of section 5725.01 of the 62373
Revised Code, or other corporation or person liable for the amount 62374
of the taxes and interest due under the provisions of Chapter 62375
5731. of the Revised Code on the transfer of such stock, deposit, 62376
proceeds of an annuity or matured endowment contract or of a life 62377
insurance contract payable to the estate of a decedent, or other 62378
insurance contract taxable under Chapter 5731. of the Revised 62379
Code, proceeds of any death benefit, retirement, pension, or 62380
profit sharing plan in excess of two thousand dollars, or 62381
securities, assets, or other property of any resident decedent, 62382
and in addition thereto, to a penalty of not less than five 62383
hundred or more than five thousand dollars. 62384

Sec. 5731.41. To enforce section 5731.39 of the Revised Code, 62385

and to administer Chapters 5713. and 4503. of the Revised Code the 62386
tax commissioner may appoint agents in the unclassified civil 62387
service who shall perform such duties as are prescribed by the 62388
commissioner. Such agents shall, as compensation, receive annually 62389
eight cents per capita for each full one thousand of the first 62390
twenty thousand of the population of the county and two cents per 62391
capita for each full one thousand over twenty thousand of the 62392
population of the county, as shown by the last federal census, 62393
which shall be paid in equal monthly installments from the 62394
undivided inheritance or estate tax in the county treasury on the 62395
warrant of the county auditor or from the county real estate 62396
assessment fund pursuant to division (B)(6) of section 325.31 of 62397
the Revised Code, any other provision of law to the contrary 62398
notwithstanding. The amount paid to any agent in the unclassified 62399
service for all of the duties performed ~~in estate tax matters~~ 62400
under this section, as directed by the commissioner, shall not 62401
exceed three thousand nor be less than twelve hundred dollars in 62402
any calendar year. 62403

Sec. 5731.99. Whoever violates this chapter, or any lawful 62404
rule promulgated by the tax commissioner under authority of this 62405
chapter, for the violation of which no other penalty is provided 62406
in this chapter, shall be fined not less than ~~one~~ five hundred or 62407
more than five ~~ten~~ thousand dollars. 62408

Sec. 5733.01. (A) The tax provided by this chapter for 62409
domestic corporations shall be the amount charged against each 62410
corporation organized for profit under the laws of this state and 62411
each nonprofit corporation organized pursuant to Chapter 1729. of 62412
the Revised Code, except as provided in sections 5733.09 and 62413
5733.10 of the Revised Code, for the privilege of exercising its 62414
franchise during the calendar year in which that amount is 62415
payable, and the tax provided by this chapter for foreign 62416

corporations shall be the amount charged against each corporation 62417
organized for profit and each nonprofit corporation organized or 62418
operating in the same or similar manner as nonprofit corporations 62419
organized under Chapter 1729. of the Revised Code, under the laws 62420
of any state or country other than this state, except as provided 62421
in sections 5733.09 and 5733.10 of the Revised Code, for the 62422
privilege of doing business in this state, owning or using a part 62423
or all of its capital or property in this state, holding a 62424
certificate of compliance with the laws of this state authorizing 62425
it to do business in this state, or otherwise having nexus in or 62426
with this state under the Constitution of the United States, 62427
during the calendar year in which that amount is payable. 62428

(B) A corporation is subject to the tax imposed by section 62429
5733.06 of the Revised Code for each calendar year that it is so 62430
organized, doing business, owning or using a part or all of its 62431
capital or property, holding a certificate of compliance, or 62432
otherwise having nexus in or with this state under the 62433
Constitution of the United States, on the first day of January of 62434
that calendar year. 62435

(C) Any corporation subject to this chapter that is not 62436
subject to the federal income tax shall file its returns and 62437
compute its tax liability as required by this chapter in the same 62438
manner as if that corporation were subject to the federal income 62439
tax. 62440

(D) For purposes of this chapter, a federally chartered 62441
financial institution shall be deemed to be organized under the 62442
laws of the state within which its principal office is located. 62443

(E) Any For purposes of this chapter, any person, as defined 62444
in section 5701.01 of the Revised Code, shall be treated as a 62445
corporation ~~for purposes of this chapter~~ if the person is 62446
classified for federal income tax purposes as an association 62447
taxable as a corporation, and an equity interest in the person 62448

shall be treated as capital stock of the person. 62449

(F) For the purposes of this chapter, "disregarded entity" 62450
has the same meaning as in division (D) of section 5745.01 of the 62451
Revised Code. 62452

(1) A person's interest in a disregarded entity, whether held 62453
directly or indirectly, shall be treated as the person's ownership 62454
of the assets and liabilities of the disregarded entity, and the 62455
income, including gain or loss, shall be included in the person's 62456
net income under this chapter. 62457

(2) Any sale, exchange, or other disposition of the person's 62458
interest in the disregarded entity, whether held directly or 62459
indirectly, shall be treated as a sale, exchange, or other 62460
disposition of the person's share of the disregarded entity's 62461
underlying assets or liabilities, and the gain or loss from such 62462
sale, exchange, or disposition shall be included in the person's 62463
net income under this chapter. 62464

(3) The disregarded entity's payroll, property, and sales 62465
factors shall be included in the person's factors. 62466

(G) The tax a corporation is required to pay under this 62467
chapter shall be as follows: 62468

(1)(a) For financial institutions, the greater of the minimum 62469
payment required under division (E) of section 5733.06 of the 62470
Revised Code or the difference between all taxes charged the 62471
financial institution under this chapter, without regard to 62472
division (G)(2) of this section, less any credits allowable 62473
against such tax. 62474

(b) A corporation satisfying the description in division 62475
(E)(5), (6), (7), or (8) of section 5751.01 of the Revised Code 62476
that is not a financial institution, insurance company, or dealer 62477
in intangibles is subject to the taxes imposed under this chapter 62478
as a corporation and not subject to tax as a financial 62479

institution, and shall pay the greater of the minimum payment 62480
required under division (E) of section 5733.06 of the Revised Code 62481
or the difference between all the taxes charged under this 62482
chapter, without regard to division (G)(2) of this section, less 62483
any credits allowable against such tax. 62484

(2) For all corporations other than those persons described 62485
in division (G)(1)(a) or (b) of this section, the amount under 62486
division (G)(2)(a) of this section applicable to the tax year 62487
specified less the amount under division (G)(2)(b) of this 62488
section: 62489

(a)(i) For tax year 2005, the greater of the minimum payment 62490
required under division (E) of section 5733.06 of the Revised Code 62491
or the difference between all taxes charged the corporation under 62492
this chapter less any credits allowable against such tax; 62493

(ii) For tax year 2006, the greater of the minimum payment 62494
required under division (E) of section 5733.06 of the Revised Code 62495
or four-fifths of the difference between all taxes charged the 62496
corporation under this chapter less any credits allowable against 62497
such tax except the qualifying pass-through entity tax credit 62498
described in division (A)(1) and the refundable credits described 62499
in divisions (A)(29), (30), and (31) of section 5733.98 of the 62500
Revised Code; 62501

(iii) For tax year 2007, the greater of the minimum payment 62502
required under division (E) of section 5733.06 of the Revised Code 62503
or three-fifths of the difference between all taxes charged the 62504
corporation under this chapter less any credits allowable against 62505
such tax except the qualifying pass-through entity tax credit 62506
described in division (A)(1) and the refundable credits described 62507
in divisions (A)(29), (30), and (31) of section 5733.98 of the 62508
Revised Code; 62509

(iv) For tax year 2008, the greater of the minimum payment 62510

required under division (E) of section 5733.06 of the Revised Code 62511
or two-fifths of the difference between all taxes charged the 62512
corporation under this chapter less any credits allowable against 62513
such tax except the qualifying pass-through entity tax credit 62514
described in division (A)(1) and the refundable credits described 62515
in divisions (A)(29), (30), and (31) of section 5733.98 of the 62516
Revised Code except the qualifying pass-through entity tax credit 62517
under division (A)(1) and the refundable credits under divisions 62518
(A)(29), (30), and (31) of section 5733.98 of the Revised Code; 62519

(v) For tax year 2009, the greater of the minimum payment 62520
required under division (E) of section 5733.06 of the Revised Code 62521
or one-fifth of the difference between all taxes charged the 62522
corporation under this chapter less any credits allowable against 62523
such tax except the qualifying pass-through entity tax credit 62524
described in division (A)(1) and the refundable credits described 62525
in divisions (A)(29), (30), and (31) of section 5733.98 of the 62526
Revised Code except the qualifying pass-through entity tax credit 62527
under division (A)(1) and the refundable credits under divisions 62528
(A)(29), (30), and (31) of section 5733.98 of the Revised Code; 62529

(vi) For tax year 2010 and each tax year thereafter, no tax. 62530

(b) A corporation shall subtract from the amount calculated 62531
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 62532
any qualifying pass-through entity tax credit described in 62533
division (A)(1) and any refundable credit described in division 62534
(A)(29), (30), or (31) of section 5733.98 of the Revised Code to 62535
which the corporation is entitled. Any unused qualifying 62536
pass-through entity tax credit is not refundable. 62537

(c) For the purposes of computing the amount of a credit that 62538
may be carried forward to a subsequent tax year under division 62539
(G)(2) of this section, a credit is utilized against the tax for a 62540
tax year to the extent the credit applies against the tax for that 62541

tax year, even if the difference is then multiplied by the 62542
fraction under division (G)(2)(a) of this section. 62543

(3) Nothing in division (G) of this section eliminates or 62544
reduces the tax imposed by section 5733.41 of the Revised Code on 62545
a qualifying pass-through entity. 62546

Sec. 5733.065. (A) As used in this section, "litter stream 62547
products" means: 62548

(1) Intoxicating liquor, beer, wine, mixed beverages, or 62549
spirituous liquor as defined in section 4301.01 of the Revised 62550
Code; 62551

(2) Soft drinks as defined in section 913.22 of the Revised 62552
Code; 62553

(3) Glass, metal, plastic, or fiber containers with a 62554
capacity of less than two gallons sold for the purpose of being 62555
incorporated into or becoming a part of a product enumerated in 62556
divisions (A)(1) and (2) of this section; 62557

(4) Container crowns and closures sold for the purpose of 62558
being incorporated into or becoming a part of a product enumerated 62559
in divisions (A)(1) and (2) of this section; 62560

(5) Packaging materials transferred or intended for transfer 62561
of use or possession in conjunction with retail sales of products 62562
enumerated in divisions (A)(1) and (2) of this section; 62563

(6) Packaging materials in the finished form in which they 62564
are to be used, including sacks, bags, cups, lids, straws, plates, 62565
wrappings, boxes, or containers of any type used in the packaging 62566
or serving of food or beverages, when the food or beverages are 62567
prepared for human consumption by a restaurant or take-out food 62568
outlet at the premises where sold at retail and are delivered to a 62569
purchaser for consumption off the premises where the food or 62570
beverages are sold; 62571

(7) Cigarettes, cigars, tobacco, matches, candy, and gum. 62572

(B) For the purpose of providing additional funding for the 62573
~~division of recycling and litter prevention under Chapter 1502. of~~ 62574
~~the Revised Code,~~ there is hereby levied an additional tax on 62575
corporations for the privilege of manufacturing or selling litter 62576
stream products in this state. The tax imposed by this section is 62577
in addition to the tax charged under section 5733.06 of the 62578
Revised Code, computed at the rate prescribed by section 5733.066 62579
of the Revised Code. ~~This section does not apply for tax year 1981~~ 62580
~~to a corporation whose taxable year for tax year 1981 ended on or~~ 62581
~~before June 30, 1980.~~ 62582

(C) The tax shall be imposed upon each corporation subject to 62583
the tax imposed by section 5733.06 of the Revised Code that 62584
manufactures or sells litter stream products in this state. The 62585
tax for each year shall be in an amount equal to the greater of 62586
either: 62587

(1) Twenty-two hundredths of one per cent upon the value of 62588
that portion of the taxpayer's issued and outstanding shares of 62589
stock as determined under division (B) of section 5733.05 of the 62590
Revised Code that is subject to the rate contained in division (B) 62591
of section 5733.06 of the Revised Code; 62592

(2) Fourteen one-hundredths of a mill times the value of the 62593
taxpayer's issued and outstanding shares of stock as determined 62594
under division (C) of section 5733.05 of the Revised Code. 62595

The additional tax charged any taxpayer or group of combined 62596
taxpayers pursuant to this section for any tax year shall not 62597
exceed five thousand dollars. 62598

(D)(1) In the case of a corporation engaged in the business 62599
of manufacturing litter stream products, no tax shall be due under 62600
this section unless the sale of litter stream products in this 62601
state during the taxable year exceeds five per cent of the total 62602

sales in this state of the corporation during that period or 62603
unless the total sales in this state of litter stream products by 62604
the corporation during the taxable year exceed ten million 62605
dollars. 62606

(2) In the case of a corporation engaged in the business of 62607
selling litter stream products in the form in which the item is or 62608
is to be received, no tax shall be due under this section unless 62609
the corporation's sales of litter stream products in this state 62610
during the taxable year constitute more than five per cent of its 62611
total sales in this state during that period. 62612

(3) In the case of a corporation transferring possession of 62613
litter stream products included in division (A)(6) of this 62614
section, in which food or beverages prepared for human consumption 62615
are placed, when the food or beverages are prepared for retail 62616
sale at the premises where sold and are delivered to a purchaser 62617
for consumption off the premises where the food or beverages are 62618
sold, no tax shall be due under this section unless such sales for 62619
off-premises consumption during the taxable year exceed five per 62620
cent of the corporation's total annual sales during the taxable 62621
year. 62622

(E)(1) The tax imposed by this section is due in the 62623
proportions and on the dates on which the tax imposed by section 62624
5733.06 of the Revised Code may be paid without penalty. 62625

(2) Payment of the tax and any reports or returns required to 62626
enable the tax commissioner to determine the correct amount of the 62627
tax shall be submitted with and are due at the same time as 62628
payments and reports required to be submitted under this chapter. 62629

(3) If the tax is not paid in full on or before the date 62630
required by division (E)(1) of this section, the unpaid portion of 62631
the tax due and unpaid shall be subject to all provisions of this 62632
chapter for the collection of unpaid, delinquent taxes imposed by 62633

section 5733.06 of the Revised Code, except that all such taxes, 62634
interest, and penalties, when collected, shall be treated as 62635
proceeds arising from the tax imposed by this section and shall be 62636
deposited in the general revenue fund. 62637

The tax levied on corporations under this section does not 62638
prohibit or otherwise limit the authority of municipal 62639
corporations to impose an income tax on the income of such 62640
corporations. 62641

Sec. 5733.066. There shall be added to the rates contained in 62642
section 5733.06 of the Revised Code the following: 62643

(A) To the rate in division (A) of that section upon that 62644
portion of the value of the taxpayer's issued and outstanding 62645
shares of stock as determined under division (B) of section 62646
5733.05 of the Revised Code that is subject to such rate, an 62647
additional eleven-hundredths per cent upon that value to provide 62648
funding for ~~the division of recycling and litter prevention under~~ 62649
~~Chapter 1502. of the Revised Code;~~ 62650

(B) To the rate in division (B) of that section upon that 62651
portion of the value so determined that is subject to that rate, 62652
an additional twenty-two-hundredths per cent upon that value to 62653
provide funding for ~~the division~~ recycling and litter prevention 62654
~~under Chapter 1502. of the Revised Code;~~ 62655

(C) To the rate in division (C) of that section times that 62656
portion of the value of the taxpayer's issued and outstanding 62657
shares of stock as determined under division (C) of section 62658
5733.05 of the Revised Code, an additional fourteen one-hundredths 62659
mills times that value to provide funding for ~~the division of~~ 62660
recycling and litter prevention ~~under Chapter 1502. of the Revised~~ 62661
~~Code.~~ 62662

The additional tax charged any taxpayer or group of combined 62663

taxpayers pursuant to this section for any tax year shall not
exceed five thousand dollars.

This section does not apply to any family farm corporation as
defined in section 4123.01 of the Revised Code.

The tax levied on corporations under this section does not
prohibit or otherwise limit the authority of municipal
corporations to impose an income tax on the income of such
corporations.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and
machinery, and tools and implements, of every kind used, or
designed to be used, in refining and manufacturing. "Manufacturing
machinery and equipment" does not include property acquired after
December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or
more of the electricity that the property generates is consumed,
during the one-hundred-twenty-month period commencing with the
date the property is placed in service, by persons that are not
related members to the person who generates the electricity.

(2) "New manufacturing machinery and equipment" means
manufacturing machinery and equipment, the original use in this
state of which commences with the taxpayer or with a partnership
of which the taxpayer is a partner. "New manufacturing machinery
and equipment" does not include property acquired after December
31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or
more of the electricity that the property generates is consumed,

during the one-hundred-twenty-month period commencing with the 62693
date the property is placed in service, by persons that are not 62694
related members to the person who generates the electricity. 62695

(3)(a) "Purchase" has the same meaning as in section 62696
179(d)(2) of the Internal Revenue Code. 62697

(b) For purposes of this section, any property that is not 62698
manufactured or assembled primarily by the taxpayer is considered 62699
purchased at the time the agreement to acquire the property 62700
becomes binding. Any property that is manufactured or assembled 62701
primarily by the taxpayer is considered purchased at the time the 62702
taxpayer places the property in service in the county for which 62703
the taxpayer will calculate the county excess amount. 62704

(c) Notwithstanding section 179(d) of the Internal Revenue 62705
Code, a taxpayer's direct or indirect acquisition of new 62706
manufacturing machinery and equipment is not purchased on or after 62707
July 1, 1995, if the taxpayer, or a person whose relationship to 62708
the taxpayer is described in subparagraphs (A), (B), or (C) of 62709
section 179(d)(2) of the Internal Revenue Code, had directly or 62710
indirectly entered into a binding agreement to acquire the 62711
property at any time prior to July 1, 1995. 62712

(4) "Qualifying period" means the period that begins July 1, 62713
1995, and ends ~~December 31, 2015~~ June 30, 2005. 62714

(5) "County average new manufacturing machinery and equipment 62715
investment" means either of the following: 62716

(a) The average annual cost of new manufacturing machinery 62717
and equipment purchased for use in the county during baseline 62718
years, in the case of a taxpayer that was in existence for more 62719
than one year during baseline years. 62720

(b) Zero, in the case of a taxpayer that was not in existence 62721
for more than one year during baseline years. 62722

(6) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus

- area, an inner city area, or a situational distress area. 62753
- (10) "Inner city area" means, in a municipal corporation that 62754
has a population of at least one hundred thousand and does not 62755
meet the criteria of a labor surplus area or a distressed area, 62756
targeted investment areas established by the municipal corporation 62757
within its boundaries that are comprised of the most recent census 62758
block tracts that individually have at least twenty per cent of 62759
their population at or below the state poverty level or other 62760
census block tracts contiguous to such census block tracts. 62761
- (11) "Labor surplus area" means an area designated as a labor 62762
surplus area by the United States department of labor. 62763
- (12) "Official poverty line" has the same meaning as in 62764
division (A) of section 3923.51 of the Revised Code. 62765
- (13) "Situational distress area" means a county or a 62766
municipal corporation that has experienced or is experiencing a 62767
closing or downsizing of a major employer, that will adversely 62768
affect the county's or municipal corporation's economy. In order 62769
to be designated as a situational distress area for a period not 62770
to exceed thirty-six months, the county or municipal corporation 62771
may petition the director of development. The petition shall 62772
include written documentation that demonstrates all of the 62773
following adverse effects on the local economy: 62774
- (a) The number of jobs lost by the closing or downsizing; 62775
- (b) The impact that the job loss has on the county's or 62776
municipal corporation's unemployment rate as measured by the state 62777
director of job and family services; 62778
- (c) The annual payroll associated with the job loss; 62779
- (d) The amount of state and local taxes associated with the 62780
job loss; 62781
- (e) The impact that the closing or downsizing has on the 62782

suppliers located in the county or municipal corporation.	62783
(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.	62784 62785
(15) "Baseline years" means:	62786
(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;	62787 62788 62789
(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;	62790 62791 62792
(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;	62793 62794 62795
(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;	62796 62797 62798
(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;	62799 62800 62801
(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	62802 62803 62804
(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	62805 62806 62807
(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 <u>on or after January 1, 2005, and on or before June 30, 2005,</u> of new manufacturing machinery and equipment;	62808 62809 62810 62811

(i) Calendar years 2000, 2001, and 2002, with regard to a credit claimed for the purchase during calendar year 2006 of new manufacturing machinery and equipment;	62812
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(j) Calendar years 2001, 2002, and 2003, with regard to a credit claimed for the purchase during calendar year 2007 of new manufacturing machinery and equipment;	62815
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(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;	62818
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(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;	62821
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(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;	62824
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(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;	62827
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(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;	62830
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(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;	62833
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(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;	62836
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(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.	62839
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(16) "Related member" has the same meaning as in section 62842
5733.042 of the Revised Code. 62843

(B)(1) Subject to division (I) of this section, a 62844
nonrefundable credit is allowed against the tax imposed by section 62845
5733.06 of the Revised Code for a taxpayer that purchases new 62846
manufacturing machinery and equipment during the qualifying 62847
period, provided that the new manufacturing machinery and 62848
equipment are installed in this state no later than ~~December 31,~~ 62849
2016 June 30, 2006. 62850

(2)(a) Except as otherwise provided in division (B)(2)(b) of 62851
this section, a credit may be claimed under this section in excess 62852
of one million dollars only if the cost of all manufacturing 62853
machinery and equipment owned in this state by the taxpayer 62854
claiming the credit on the last day of the calendar year exceeds 62855
the cost of all manufacturing machinery and equipment owned in 62856
this state by the taxpayer on the first day of that calendar year. 62857

As used in division (B)(2)(a) of this section, "calendar 62858
year" means the calendar year in which the machinery and equipment 62859
for which the credit is claimed was purchased. 62860

(b) Division (B)(2)(a) of this section does not apply if the 62861
taxpayer claiming the credit applies for and is issued a waiver of 62862
the requirement of that division. A taxpayer may apply to the 62863
director of development for such a waiver in the manner prescribed 62864
by the director, and the director may issue such a waiver if the 62865
director determines that granting the credit is necessary to 62866
increase or retain employees in this state, and that the credit 62867
has not caused relocation of manufacturing machinery and equipment 62868
among counties within this state for the primary purpose of 62869
qualifying for the credit. 62870

(C)(1) Except as otherwise provided in division (C)(2) and 62871
division (I) of this section, the credit amount is equal to seven 62872

and one-half per cent of the excess of the cost of the new
manufacturing machinery and equipment purchased during the
calendar year for use in a county over the county average new
manufacturing machinery and equipment investment for that county.

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(2) Subject to division (I) of this section, as used in
division (C)(2) of this section "county excess" means the
taxpayer's excess cost for a county as computed under division
(C)(1) of this section.

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Subject to division (I) of this section, a taxpayer with a
county excess, whose purchases included purchases for use in any
eligible area in the county, the credit amount is equal to
thirteen and one-half per cent of the cost of the new
manufacturing machinery and equipment purchased during the
calendar year for use in the eligible areas in the county,
provided that the cost subject to the thirteen and one-half per
cent rate shall not exceed the county excess. If the county excess
is greater than the cost of the new manufacturing machinery and
equipment purchased during the calendar year for use in eligible
areas in the county, the credit amount also shall include an
amount equal to seven and one-half per cent of the amount of the
difference.

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(3) If a taxpayer is allowed a credit for purchases of new
manufacturing machinery and equipment in more than one county or
eligible area, it shall aggregate the amount of those credits each
year.

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(4) The taxpayer shall claim one-seventh of the credit amount
for the tax year immediately following the calendar year in which
the new manufacturing machinery and equipment is purchased for use
in the county by the taxpayer or partnership. One-seventh of the
taxpayer credit amount is allowed for each of the six ensuing tax
years. Except for carried-forward amounts, the taxpayer is not

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allowed any credit amount remaining if the new manufacturing
machinery and equipment is sold by the taxpayer or partnership or
is transferred by the taxpayer or partnership out of the county
before the end of the seven-year period unless, at the time of the
sale or transfer, the new manufacturing machinery and equipment
has been fully depreciated for federal income tax purposes.

(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 62936
reference to the basis of the pass-through entity which 62937
transferred the new manufacturing machinery and equipment to the 62938
transferee. 62939

(d) Division (C)(5) of this section shall apply only if the 62940
acquiring taxpayer or transferee does not sell the new 62941
manufacturing machinery and equipment or transfer the new 62942
manufacturing machinery and equipment out of the county before the 62943
end of the seven-year period to which division (C)(4) of this 62944
section refers. 62945

(e) Division (C)(5)(b) of this section applies only to the 62946
extent that the taxpayer that sold the manufacturing machinery or 62947
equipment, upon request, timely provides to the tax commissioner 62948
any information that the tax commissioner considers to be 62949
necessary to ascertain any remaining or carried-forward amounts to 62950
which the taxpayer that sold the facility would have been entitled 62951
under this section had the taxpayer not sold the manufacturing 62952
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 62953
this section shall be construed to allow a taxpayer to claim any 62954
credit amount with respect to the acquired manufacturing machinery 62955
or equipment that is greater than the amount that would have been 62956
available to the other taxpayer that sold the manufacturing 62957
machinery or equipment had the other taxpayer not sold the 62958
manufacturing machinery or equipment. 62959

(D) The taxpayer shall claim the credit in the order required 62960
under section 5733.98 of the Revised Code. Each year, any credit 62961
amount in excess of the tax due under section 5733.06 of the 62962
Revised Code after allowing for any other credits that precede the 62963
credit under this section in that order may be carried forward for 62964
three tax years. 62965

(E) A taxpayer purchasing new manufacturing machinery and 62966

equipment and intending to claim the credit shall file, with the
department of development, a notice of intent to claim the credit
on a form prescribed by the department of development. The
department of development shall inform the tax commissioner of the
notice of intent to claim the credit. No credit may be claimed
under this section for any manufacturing machinery and equipment
with respect to which a notice was not filed on or before
September 30, 2005.

(F) The director of development shall annually certify, by
the first day of January of each year during the qualifying
period, the eligible areas for the tax credit for the calendar
year that includes that first day of January. The director shall
send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a
taxpayer claims the credit under section 5733.31, 5733.311,
5747.26, or 5747.261 of the Revised Code shall not be considered
new manufacturing machinery and equipment for purposes of the
credit under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the
Revised Code, but subject to division (H)(2) of this section, the
tax commissioner may issue an assessment against a person with
respect to a credit claimed under this section for new
manufacturing machinery and equipment described in division
(A)(1)(b) or (2)(b) of this section, if the machinery or equipment
subsequently does not qualify for the credit.

(2) Division (H)(1) of this section shall not apply after the
twenty-fourth month following the last day of the period described
in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to
the contrary, in the case of a qualifying controlled group, the
credit available under this section to a taxpayer or taxpayers in

the qualifying controlled group shall be computed as if all
corporations in the group were a single corporation. The credit
shall be allocated to such a taxpayer or taxpayers in the group in
any amount elected for the taxable year by the group. Such
election shall be revocable and amendable during the period
described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing
machinery and equipment made on or after January 1, 2001, and to
all baseline years used to compute any credit attributable to such
purchases; provided, that this division may be applied solely at
the election of the qualifying controlled group with respect to
all purchases of new manufacturing machinery and equipment made
before that date, and to all baseline years used to compute any
credit attributable to such purchases. The qualifying controlled
group at any time may elect to apply this division to purchases
made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report,
but the election may accompany a subsequently filed but timely
application for refund, a subsequently filed but timely amended
report, or a subsequently filed but timely petition for
reassessment.

Sec. 5733.351. (A) As used in this section, "qualified
research expenses" has the same meaning as in section 41 of the
Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax
imposed by section 5733.06 of the Revised Code for tax year 2002
for a taxpayer whose taxable year for tax year 2002 ended before
July 1, 2001. The credit shall equal seven per cent of the excess
of qualified research expenses incurred in this state by the

taxpayer between January 1, 2001, and the end of the taxable year, 63028
over the taxpayer's average annual qualified research expenses 63029
incurred in this state for the three preceding taxable years. 63030

(2) A nonrefundable credit also is allowed against the tax 63031
imposed by section 5733.06 of the Revised Code for each tax year, 63032
commencing with tax year 2004, and in the case of a corporation 63033
subject to division (G)(2) of section 5733.01 of the Revised Code 63034
ending with tax year 2008. The credit shall equal seven per cent 63035
of the excess of qualified research expenses incurred in this 63036
state by the taxpayer for the taxable year over the taxpayer's 63037
average annual qualified research expenses incurred in this state 63038
for the three preceding taxable years. 63039

(3) The taxpayer shall claim the credit allowed under 63040
division (B)(1) or (2) of this section in the order required by 63041
section 5733.98 of the Revised Code. Any credit amount in excess 63042
of the tax due under section 5733.06 of the Revised Code, after 63043
allowing for any other credits that precede the credit under this 63044
section in the order required under section 5733.98 of the Revised 63045
Code, may be carried forward for seven taxable years, but the 63046
amount of the excess credit allowed in any such year shall be 63047
deducted from the balance carried forward to the next year. A 63048
corporation subject to division (G)(2) of section 5733.01 of the 63049
Revised Code may carry forward any credit not fully utilized by 63050
tax year 2008 and apply it against the tax levied by Chapter 5751. 63051
of the Revised Code to the extent allowed under section 5751.51 of 63052
the Revised Code, provided that the total number of taxable years 63053
under this section and calendar years under Chapter 5751. of the 63054
Revised Code for which the credit is carried forward shall not 63055
exceed seven. 63056

(C) In the case of a qualifying controlled group, the credit 63057
allowed under division (B)(1) or (2) of this section to taxpayers 63058
in the qualifying controlled group shall be computed as if all 63059

corporations in the qualifying controlled group were a 63060
consolidated, single taxpayer. The credit shall be allocated to 63061
such taxpayers in any amount elected for the taxable year by the 63062
qualifying controlled group. The election shall be revocable and 63063
amendable during the period prescribed by division (B) of section 63064
5733.12 of the Revised Code. 63065

Sec. 5733.352. (A) As used in this section: 63066

(1) "Borrower" means any person that receives a loan from the 63067
director of development under section 166.21 of the Revised Code, 63068
regardless of whether the borrower is subject to the taxes imposed 63069
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 63070

(2) "Related member" has the same meaning as in section 63071
5733.042 of the Revised Code. 63072

(3) "Qualified research and development loan payments" has 63073
the same meaning as in division (D) of section 166.21 of the 63074
Revised Code. 63075

(B) Beginning ~~in~~ with tax year 2004, and in the case of a 63076
corporation subject to division (G)(2) of section 5733.01 of the 63077
Revised Code ending with tax year 2008, a nonrefundable credit is 63078
allowed against the taxes imposed by sections 5733.06, 5733.065, 63079
and 5733.066 of the Revised Code equal to a borrower's qualified 63080
research and development loan payments made during the calendar 63081
year immediately preceding the tax year for which the credit is 63082
claimed. The amount of the credit for a tax year shall not exceed 63083
one hundred fifty thousand dollars. No taxpayer is entitled to 63084
claim a credit under this section unless it has obtained a 63085
certificate issued by the director of development under division 63086
(D) of section 166.21 of the Revised Code. The credit shall be 63087
claimed in the order required under section 5733.98 of the Revised 63088
Code. The credit, to the extent it exceeds the taxpayer's tax 63089

liability for the tax year after allowance for any other credits 63090
that precede the credit under this section in that order, shall be 63091
carried forward to the next succeeding tax year or years until 63092
fully used. A corporation subject to division (G)(2) of section 63093
5733.01 of the Revised Code may carry forward any credit not fully 63094
utilized by tax year 2008 and apply it against the tax levied by 63095
Chapter 5751. of the Revised Code to the extent allowed under 63096
section 5751.52 of the Revised Code. 63097

(C) A borrower entitled to a credit under this section may 63098
assign the credit, or a portion thereof, to any of the following: 63099

(1) A related member of that borrower; 63100

(2) The owner or lessee of the eligible research and 63101
development project; 63102

(3) A related member of the owner or lessee of the eligible 63103
research and development project. 63104

A borrower making an assignment under this division shall 63105
provide written notice of the assignment to the tax commissioner 63106
and the director of development, in such form as the tax 63107
commissioner prescribes, before the credit that was assigned is 63108
used. The assignor may not claim the credit to the extent it was 63109
assigned to an assignee. The assignee may claim the credit only to 63110
the extent the assignor has not claimed it. 63111

(D) If any taxpayer is a partner in a partnership or a member 63112
in a limited liability company treated as a partnership for 63113
federal income tax purposes, the taxpayer shall be allowed the 63114
taxpayer's distributive or proportionate share of the credit 63115
available through the partnership or limited liability company. 63116

(E) The aggregate credit against the taxes imposed by 63117
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 63118
Code that may be claimed under this section and section 5747.331 63119
of the Revised Code by a borrower as a result of qualified 63120

research and development loan payments attributable during a 63121
calendar year to any one loan shall not exceed one hundred fifty 63122
thousand dollars. 63123

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 63124
Chapter 5747. of the Revised Code: 63125

(A)(1) "Adjusted qualifying amount" means either of the 63126
following: 63127

(a) The sum of a each qualifying investor's distributive 63128
share of the income, gain, expense, or loss of a qualifying 63129
pass-through entity for the qualifying taxable year of the 63130
qualifying pass-through entity multiplied by the apportionment 63131
fraction defined in division (B) of this section, subject to 63132
section 5733.401 of the Revised Code and divisions (A)(2) to (7) 63133
of this section; 63134

(b) The sum of a each qualifying beneficiary's share of the 63135
qualifying net income and qualifying net gain distributed by a 63136
qualifying trust for the qualifying taxable year of the qualifying 63137
trust multiplied by the apportionment fraction defined in division 63138
(B) of this section, subject to section 5733.401 of the Revised 63139
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 63140

(2) The sum shall exclude any amount which, pursuant to the 63141
Constitution of the United States, the Constitution of Ohio, or 63142
any federal law is not subject to a tax on or measured by net 63143
income. 63144

(3) ~~The sum shall be increased by~~ For the purposes of 63145
Chapters 5733. and 5747. of the Revised Code, the profit or net 63146
income of the qualifying entity shall be increased by disallowing 63147
all amounts representing expenses, other than amounts described in 63148
division (A)(7) of this section, that the qualifying entity paid 63149
to or incurred with respect to direct or indirect transactions 63150

with one or more related members, excluding the cost of goods sold 63151
calculated in accordance with section 263A of the Internal Revenue 63152
Code and United States department of the treasury regulations 63153
issued thereunder. Nothing in division (A)(3) of this section 63154
shall be construed to limit solely to this chapter the application 63155
of section 263A of the Internal Revenue Code and United States 63156
department of the treasury regulations issued thereunder. 63157

(4) ~~The sum shall be increased by~~ For the purposes of 63158
Chapters 5733. and 5747. of the Revised Code, the profit or net 63159
income of the qualifying entity shall be increased by disallowing 63160
all recognized losses, other than losses from sales of inventory 63161
the cost of which is calculated in accordance with section 263A of 63162
the Internal Revenue Code and United States department of the 63163
treasury regulations issued thereunder, with respect to all direct 63164
or indirect transactions with one or more related members. ~~Losses~~ 63165
For the purposes of Chapters 5733. and 5747. of the Revised Code, 63166
losses from the sales of such inventory shall be allowed only to 63167
the extent calculated in accordance with section 482 of the 63168
Internal Revenue Code and United States department of the treasury 63169
regulations issued thereunder. Nothing in division (A)(4) of this 63170
section shall be construed to limit solely to this section the 63171
application of section 263A and section 482 of the Internal 63172
Revenue Code and United States department of the treasury 63173
regulations issued thereunder. 63174

(5) The sum shall be increased or decreased by an amount 63175
equal to the qualifying investor's or qualifying beneficiary's 63176
distributive or proportionate share of the amount that the 63177
qualifying entity would be required to add or deduct under 63178
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 63179
if the qualifying entity were a taxpayer for the purposes of 63180
Chapter 5747. of the Revised Code. 63181

(6) The sum shall be computed without regard to section 63182

5733.051 or division (D) of section 5733.052 of the Revised Code. 63183

(7) For the purposes of Chapters 5733. and 5747. of the 63184
Revised Code, guaranteed payments or compensation paid to 63185
investors by a qualifying entity that is not subject to the tax 63186
imposed by section 5733.06 of the Revised Code shall be considered 63187
a distributive share of income of the qualifying entity. Division 63188
(A)(7) of this section applies only to such payments or such 63189
compensation paid to an investor who at any time during the 63190
qualifying entity's taxable year holds at least a twenty per cent 63191
direct or indirect interest in the profits or capital of the 63192
qualifying entity. 63193

(B) "Apportionment fraction" means: 63194

(1) With respect to a qualifying pass-through entity other 63195
than a financial institution, the fraction calculated pursuant to 63196
division (B)(2) of section 5733.05 of the Revised Code as if the 63197
qualifying pass-through entity were a corporation subject to the 63198
tax imposed by section 5733.06 of the Revised Code; 63199

(2) With respect to a qualifying pass-through entity that is 63200
a financial institution, the fraction calculated pursuant to 63201
division (C) of section 5733.056 of the Revised Code as if the 63202
qualifying pass-through entity were a financial institution 63203
subject to the tax imposed by section 5733.06 of the Revised Code. 63204

(3) With respect to a qualifying trust, the fraction 63205
calculated pursuant to division (B)(2) of section 5733.05 of the 63206
Revised Code as if the qualifying trust were a corporation subject 63207
to the tax imposed by section 5733.06 of the Revised Code, except 63208
that the property, payroll, and sales fractions shall be 63209
calculated by including in the numerator and denominator of the 63210
fractions only the property, payroll, and sales, respectively, 63211
directly related to the production of income or gain from 63212
acquisition, ownership, use, maintenance, management, or 63213

disposition of tangible personal property located in this state at 63214
any time during the qualifying trust's qualifying taxable year or 63215
of real property located in this state. 63216

(C) "Qualifying beneficiary" means any individual that, 63217
during the qualifying taxable year of a qualifying trust, is a 63218
beneficiary of that trust, but does not include an individual who 63219
is a resident taxpayer for the purposes of Chapter 5747. of the 63220
Revised Code for the entire qualifying taxable year of the 63221
qualifying trust. 63222

(D) "Fiscal year" means an accounting period ending on any 63223
day other than the thirty-first day of December. 63224

(E) "Individual" means a natural person. 63225

(F) "Month" means a calendar month. 63226

(G) "Partnership" has the same meaning as in section 5747.01 63227
of the Revised Code. 63228

(H) "Investor" means any person that, during any portion of a 63229
taxable year of a qualifying pass-through entity, is a partner, 63230
member, shareholder, or investor in that qualifying pass-through 63231
entity. 63232

(I) Except as otherwise provided in section 5733.402 or 63233
5747.401 of the Revised Code, "qualifying investor" means any 63234
investor except those described in divisions (I)(1) to (9) of this 63235
section. 63236

(1) An investor satisfying one of the descriptions under 63237
section 501(a) or (c) of the Internal Revenue Code, a partnership 63238
with equity securities registered with the United States 63239
securities and exchange commission under section 12 of the 63240
"Securities Exchange Act of 1934," as amended, or an investor 63241
described in division (F) of section 3334.01, or division (A) or 63242
(C) of section 5733.09 of the Revised Code for the entire 63243

qualifying taxable year of the qualifying pass-through entity. 63244

(2) An investor who is either an individual or an estate and 63245
is a resident taxpayer for the purposes of section 5747.01 of the 63246
Revised Code for the entire qualifying taxable year of the 63247
qualifying pass-through entity. 63248

(3) An investor who is an individual for whom the qualifying 63249
pass-through entity makes a good faith and reasonable effort to 63250
comply fully and timely with the filing and payment requirements 63251
set forth in division (D) of section 5747.08 of the Revised Code 63252
and section 5747.09 of the Revised Code with respect to the 63253
individual's adjusted qualifying amount for the entire qualifying 63254
taxable year of the qualifying pass-through entity. 63255

(4) An investor that is another qualifying pass-through 63256
entity having only investors described in division (I)(1), (2), 63257
(3), or (6) of this section during the three-year period beginning 63258
twelve months prior to the first day of the qualifying taxable 63259
year of the qualifying pass-through entity. 63260

(5) An investor that is another pass-through entity having no 63261
investors other than individuals and estates during the qualifying 63262
taxable year of the qualifying pass-through entity in which it is 63263
an investor, and that makes a good faith and reasonable effort to 63264
comply fully and timely with the filing and payment requirements 63265
set forth in division (D) of section 5747.08 of the Revised Code 63266
and section 5747.09 of the Revised Code with respect to investors 63267
that are not resident taxpayers of this state for the purposes of 63268
Chapter 5747. of the Revised Code for the entire qualifying 63269
taxable year of the qualifying pass-through entity in which it is 63270
an investor. 63271

(6) An investor that is a financial institution required to 63272
calculate the tax in accordance with division ~~(D)~~(E) of section 63273
5733.06 of the Revised Code on the first day of January of the 63274

calendar year immediately following the last day of the financial 63275
institution's calendar or fiscal year in which ends the taxpayer's 63276
taxable year. 63277

(7) An investor other than an individual that satisfies all 63278
the following: 63279

(a) The investor submits a written statement to the 63280
qualifying pass-through entity stating that the investor 63281
irrevocably agrees that the investor has nexus with this state 63282
under the Constitution of the United States and is subject to and 63283
liable for the tax calculated under division (A) or (B) of section 63284
5733.06 of the Revised Code with respect to the investor's 63285
adjusted qualifying amount for the entire qualifying taxable year 63286
of the qualifying pass-through entity. The statement is subject to 63287
the penalties of perjury, shall be retained by the qualifying 63288
pass-through entity for no fewer than seven years, and shall be 63289
delivered to the tax commissioner upon request. 63290

(b) The investor makes a good faith and reasonable effort to 63291
comply timely and fully with all the reporting and payment 63292
requirements set forth in Chapter 5733. of the Revised Code with 63293
respect to the investor's adjusted qualifying amount for the 63294
entire qualifying taxable year of the qualifying pass-through 63295
entity. 63296

(c) Neither the investor nor the qualifying pass-through 63297
entity in which it is an investor, before, during, or after the 63298
qualifying pass-through entity's qualifying taxable year, carries 63299
out any transaction or transactions with one or more related 63300
members of the investor or the qualifying pass-through entity 63301
resulting in a reduction or deferral of tax imposed by Chapter 63302
5733. of the Revised Code with respect to all or any portion of 63303
the investor's adjusted qualifying amount for the qualifying 63304
pass-through entity's taxable year, or that constitute a sham, 63305
lack economic reality, or are part of a series of transactions the 63306

form of which constitutes a step transaction or transactions or 63307
does not reflect the substance of those transactions. 63308

(8) Any other investor that the tax commissioner may 63309
designate by rule. The tax commissioner may adopt rules including 63310
a rule defining "qualifying investor" or "qualifying beneficiary" 63311
and governing the imposition of the withholding tax imposed by 63312
section 5747.41 of the Revised Code with respect to an individual 63313
who is a resident taxpayer for the purposes of Chapter 5747. of 63314
the Revised Code for only a portion of the qualifying taxable year 63315
of the qualifying entity. 63316

(9) An investor that is a trust or fund the beneficiaries of 63317
which, during the qualifying taxable year of the qualifying 63318
pass-through entity, are limited to the following: 63319

(a) A person that is or may be the beneficiary of a trust 63320
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 63321
Revenue Code. 63322

(b) A person that is or may be the beneficiary of or the 63323
recipient of payments from a trust or fund that is a nuclear 63324
decommissioning reserve fund, a designated settlement fund, or any 63325
other trust or fund established to resolve and satisfy claims that 63326
may otherwise be asserted by the beneficiary or a member of the 63327
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 63328
of the Internal Revenue Code apply to the determination of whether 63329
such a person satisfies division (I)(9) of this section. 63330

(c) A person who is or may be the beneficiary of a trust 63331
that, under its governing instrument, is not required to 63332
distribute all of its income currently. Division (I)(9)(c) of this 63333
section applies only if the trust, prior to the due date for 63334
filing the qualifying pass-through entity's return for taxes 63335
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 63336
Revised Code, irrevocably agrees in writing that for the taxable 63337

year during or for which the trust distributes any of its income 63338
to any of its beneficiaries, the trust is a qualifying trust and 63339
will pay the estimated tax, and will withhold and pay the withheld 63340
tax, as required under sections 5747.40 to 5747.453 of the Revised 63341
Code. 63342

For the purposes of division (I)(9) of this section, a trust 63343
or fund shall be considered to have a beneficiary other than 63344
persons described under divisions (I)(9)(a) to (c) of this section 63345
if a beneficiary would not qualify under those divisions under the 63346
doctrines of "economic reality," "sham transaction," "step 63347
doctrine," or "substance over form." A trust or fund described in 63348
division (I)(9) of this section bears the burden of establishing 63349
by a preponderance of the evidence that any transaction giving 63350
rise to the tax benefits provided under division (I)(9) of this 63351
section does not have as a principal purpose a claim of those tax 63352
benefits. Nothing in this section shall be construed to limit 63353
solely to this section the application of the doctrines referred 63354
to in this paragraph. 63355

(J) "Qualifying net gain" means any recognized net gain with 63356
respect to the acquisition, ownership, use, maintenance, 63357
management, or disposition of tangible personal property located 63358
in this state at any time during a trust's qualifying taxable year 63359
or real property located in this state. 63360

(K) "Qualifying net income" means any recognized income, net 63361
of related deductible expenses, other than distributions 63362
deductions with respect to the acquisition, ownership, use, 63363
maintenance, management, or disposition of tangible personal 63364
property located in this state at any time during the trust's 63365
qualifying taxable year or real property located in this state. 63366

(L) "Qualifying entity" means a qualifying pass-through 63367
entity or a qualifying trust. 63368

(M) "Qualifying trust" means a trust subject to subchapter J 63369
of the Internal Revenue Code that, during any portion of the 63370
trust's qualifying taxable year, has income or gain from the 63371
acquisition, management, ownership, use, or disposition of 63372
tangible personal property located in this state at any time 63373
during the trust's qualifying taxable year or real property 63374
located in this state. "Qualifying trust" does not include a 63375
person described in section 501(c) of the Internal Revenue Code or 63376
a person described in division (C) of section 5733.09 of the 63377
Revised Code. 63378

(N) "Qualifying pass-through entity" means a pass-through 63379
entity as defined in section 5733.04 of the Revised Code, 63380
excluding: a person described in section 501(c) of the Internal 63381
Revenue Code; a partnership with equity securities registered 63382
with the United States securities and exchange commission under 63383
section 12 of the Securities Exchange Act of 1934, as amended; or 63384
a person described in division (C) of section 5733.09 of the 63385
Revised Code. 63386

(O) "Quarter" means the first three months, the second three 63387
months, the third three months, or the last three months of a 63388
qualifying entity's qualifying taxable year. 63389

(P) "Related member" has the same meaning as in division 63390
(A)(6) of section 5733.042 of the Revised Code without regard to 63391
division (B) of that section. However, for the purposes of 63392
divisions (A)(3) and (4) of this section only, "related member" 63393
has the same meaning as in division (A)(6) of section 5733.042 of 63394
the Revised Code without regard to division (B) of that section, 63395
but shall be applied by substituting "forty per cent" for "twenty 63396
per cent" wherever "twenty per cent" appears in division (A) of 63397
that section. 63398

(Q) "Return" or "report" means the notifications and reports 63399

required to be filed pursuant to sections 5747.42 to 5747.45 of
the Revised Code for the purpose of reporting the tax imposed
under section 5733.41 or 5747.41 of the Revised Code, and included
declarations of estimated tax when so required.

(R) "Qualifying taxable year" means the calendar year or the
qualifying entity's fiscal year ending during the calendar year,
or fractional part thereof, for which the adjusted qualifying
amount is calculated pursuant to sections 5733.40 and 5733.41 or
sections 5747.40 to 5747.453 of the Revised Code.

(S) "Distributive share" includes the sum of the income,
gain, expense, or loss of a disregarded entity or qualified
subchapter S subsidiary.

Sec. 5733.41. The purpose of the tax imposed by this section
is to complement and to reinforce the tax imposed under section
5733.06 of the Revised Code.

For the same purposes for which the tax is levied under
section 5733.06 of the Revised Code, there is hereby levied a tax
on every qualifying pass-through entity having at least one
qualifying investor that is not an individual. The tax imposed by
this section is imposed on the sum of the adjusted qualifying
amounts of the qualifying pass-through entity's qualifying
investors that are not individuals as follows: for qualifying
investors subject to division (G)(2) of section 5733.01 of the
Revised Code, at six and eight-tenths per cent for the entity's
taxable year ending in 2005, at five and one-tenth per cent for
the entity's taxable year ending in 2006, at three and four-tenths
per cent for the entity's taxable year ending in 2007, at one and
seven-tenths per cent for the entity's taxable year ending in
2008, and at zero per cent for the entity's taxable year ending in
2009 or in subsequent years; and for all other qualifying
investors, at the rate specified in division (B) of section

5733.06 of the Revised Code that is in effect on the last day of 63431
the entity's taxable year. 63432

The tax imposed by this section applies only if the 63433
qualifying entity has nexus with this state under the Constitution 63434
of the United States for any portion of the qualifying entity's 63435
qualifying taxable year, and the sum of the qualifying entity's 63436
adjusted qualifying amounts exceeds one thousand dollars for the 63437
qualifying entity's qualifying taxable year. This section does not 63438
apply to a pass-through entity if all of the partners, 63439
shareholders, members, or investors of the pass-through entity are 63440
taxpayers for the purposes of section 5733.04 of the Revised Code 63441
without regard to section 5733.09 of the Revised Code for the 63442
entire qualifying taxable year of the pass-through entity. 63443

If, prior to the due date of the return, a qualifying 63444
pass-through entity receives from an investor a written 63445
representation, under penalties of perjury, that the investor is 63446
described in division (I)(1), (2), (6), (7), (8), or (9) of 63447
section 5733.40 of the Revised Code for the qualifying 63448
pass-through entity's entire qualifying taxable year, the 63449
qualifying pass-through entity is not required to withhold or pay 63450
the taxes or estimated taxes imposed under this section or 63451
sections 5747.41 to 5747.453 of the Revised Code with respect to 63452
that investor for that qualifying taxable year, and is not subject 63453
to any interest or interest penalties for failure to withhold or 63454
pay those taxes or estimated taxes with respect to that investor 63455
for that qualifying taxable year. 63456

If, prior to the due date of the return, a qualifying trust 63457
receives from a beneficiary of that trust a written 63458
representation, under penalties of perjury, that the beneficiary 63459
is a resident taxpayer for the purposes of Chapter 5747. of the 63460
Revised Code for the qualifying trust's entire qualifying taxable 63461
year, the qualifying trust is not required to withhold or pay the 63462

taxes or estimated taxes imposed under this section or sections 63463
5747.41 to 5747.453 of the Revised Code with respect to that 63464
beneficiary for that qualifying taxable year, and is not subject 63465
to any interest or interest penalties for failure to withhold or 63466
pay those taxes or estimated taxes with respect to that 63467
beneficiary for that qualifying taxable year. 63468

The tax commissioner may adopt rules for the purpose of the 63469
tax levied by this section or section 5747.41 of the Revised Code, 63470
including a rule defining "qualifying investor" or "qualifying 63471
beneficiary", and a rule requiring or permitting a qualifying 63472
entity to combine its income with related members and to pay the 63473
tax and estimated tax on a combined basis. 63474

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 63475
Revised Code apply to a qualifying entity subject to the tax 63476
imposed under this section. 63477

The levy of the tax under this section does not prevent a 63478
municipal corporation or a joint economic development district 63479
created under section 715.70 or 715.71 or sections 715.72 to 63480
715.81 of the Revised Code from levying a tax on income. 63481

Sec. 5733.49. (A) Upon the issuance of a tax credit 63482
certificate by the Ohio venture capital authority under section 63483
150.07 of the Revised Code, a credit may be claimed against the 63484
tax imposed by section 5733.06 of the Revised Code. The credit 63485
shall be claimed for the tax year specified in the certificate 63486
issued by the authority and in the order required under section 63487
5733.98 of the Revised Code. 63488

(B) If the taxpayer elected a refundable credit under section 63489
150.07 of the Revised Code and the amount of the credit shown on 63490
the certificate does not exceed the tax otherwise due under 63491
section 5733.06, 5733.065, and 5733.066 of the Revised Code after 63492

all nonrefundable credits are deducted, then the taxpayer shall 63493
claim a refundable credit equal to the amount of the credit shown 63494
on the certificate. 63495

(C) If the taxpayer elected a refundable credit under section 63496
150.07 of the Revised Code, and the amount of the credit shown on 63497
the certificate exceeds the tax otherwise due under sections 63498
5733.06, 5733.065, and 5733.066 of the Revised Code after all 63499
nonrefundable credits, including the credit allowed under this 63500
section, are deducted in that order, the taxpayer shall receive a 63501
refund equal to seventy five per cent of that excess. If the 63502
taxpayer elected a nonrefundable credit, the amount of the credit, 63503
elaimed in that order, shall not exceed the tax otherwise due 63504
under those sections after all the taxpayer's credits are deducted 63505
in that order. If claim a refundable credit equal to the sum of 63506
the following: 63507

(1) The amount, if any, of the tax otherwise due under 63508
sections 5733.06, 5733.065, and 5733.066 of the Revised Code after 63509
all nonrefundable credits are deducted; 63510

(2) Seventy-five per cent of the difference between the 63511
amount of the refundable credit shown on the certificate and the 63512
tax otherwise due under sections 5733.06, 5733.065, and 5733.066 63513
of the Revised Code after all nonrefundable credits are deducted. 63514

(D) If the taxpayer elected a nonrefundable credit and the 63515
credit to which the taxpayer would otherwise be entitled under 63516
this section for any tax year is greater than the tax otherwise 63517
due under sections 5733.06, 5733.065, and 5733.066 of the Revised 63518
Code, after allowing for any other credits that, under section 63519
5733.98 of the Revised Code, precede the credit allowed under this 63520
section, the excess shall be allowed as a nonrefundable credit in 63521
each of the ensuing ten tax years, but the amount of any excess 63522
credit allowed in the ensuing tax year shall be deducted from the 63523

balance carried forward to the next tax year. 63524

Sec. 5733.98. (A) To provide a uniform procedure for 63525
calculating the amount of tax imposed by section 5733.06 of the 63526
Revised Code that is due under this chapter, a taxpayer shall 63527
claim any credits to which it is entitled in the following order, 63528
except as otherwise provided in section 5733.058 of the Revised 63529
Code: 63530

(1) ~~The~~ For tax year 2005, the credit for taxes paid by a 63531
qualifying pass-through entity allowed under section 5733.0611 of 63532
the Revised Code; 63533

(2) The credit allowed for financial institutions under 63534
section 5733.45 of the Revised Code; 63535

(3) The credit for qualifying affiliated groups under section 63536
5733.068 of the Revised Code; 63537

(4) The subsidiary corporation credit under section 5733.067 63538
of the Revised Code; 63539

(5) The savings and loan assessment credit under section 63540
5733.063 of the Revised Code; 63541

(6) The credit for recycling and litter prevention donations 63542
under section 5733.064 of the Revised Code; 63543

(7) The credit for employers that enter into agreements with 63544
child day-care centers under section 5733.36 of the Revised Code; 63545

(8) The credit for employers that reimburse employee child 63546
care expenses under section 5733.38 of the Revised Code; 63547

(9) The credit for maintaining railroad active grade crossing 63548
warning devices under section 5733.43 of the Revised Code; 63549

(10) The credit for purchases of lights and reflectors under 63550
section 5733.44 of the Revised Code; 63551

(11) The job retention credit under division (B) of section 63552

5733.0610 of the Revised Code;	63553
(12) 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;	63554 63555 63556 63557
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	63558 63559 63560
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	63561 63562
(15) The job training credit under section 5733.42 of the Revised Code;	63563 63564
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	63565 63566
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	63567 63568
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	63569 63570
(19) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	63571 63572
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	63573 63574
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	63575 63576
(22) The export sales credit under section 5733.069 of the Revised Code;	63577 63578
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	63579 63580
(24) The enterprise zone credits under section 5709.65 of the	63581

Revised Code; 63582

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code; 63583
63584

~~(26) The research and development credit under section 5733.352 of the Revised Code;~~ 63585
63586

~~(27)~~ The credit for small telephone companies under section 5733.57 of the Revised Code; 63587
63588

~~(28)~~(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code; 63589
63590

~~(29)~~(28) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code; 63591
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~~(30)~~(29) The research and development credit under section 5733.352 of the Revised Code; 63594
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(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 63596
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63598

(31) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 63599
63600

~~(31)~~(32) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code; 63601
63602

~~(32)~~(33) 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. 63603
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(B) For any credit except the credits enumerated in divisions (A)~~(30)~~, (31), ~~and (32)~~, and (33) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order 63607
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required under this section. Any excess amount of a particular 63611
credit may be carried forward if authorized under the section 63612
creating that credit. 63613

Sec. 5733.99. Whoever violates section 5733.21 of the Revised 63614
Code shall be fined not less than one hundred nor more than ~~one~~ 63615
five thousand dollars. 63616

Sec. 5735.99. (A) Whoever violates division (F) of section 63617
5735.02, division (D) of section 5735.021, division (B) of section 63618
5735.063, division (B) of section 5735.064, or division (A)(2) of 63619
section 5735.20 of the Revised Code is guilty of a misdemeanor of 63620
the first degree. 63621

(B) Whoever violates division (E) of section 5735.06 of the 63622
Revised Code is guilty of a felony of the fourth degree. 63623

(C) Whoever violates section 5735.025 or division (A)(1) of 63624
section 5735.20 of the Revised Code is guilty of a misdemeanor of 63625
the first degree, if the tax owed or the fraudulent refund 63626
received is not greater than five hundred dollars. If the tax owed 63627
or the fraudulent refund received is greater than five hundred 63628
dollars but not greater than ten thousand dollars, the ~~offender~~ 63629
person is guilty of a felony of the fourth degree; ~~for each~~ 63630
~~subsequent.~~ If the person previously has been convicted of any 63631
~~offense when the tax owed or the fraudulent refund received is~~ 63632
~~greater than five hundred dollars but not greater than ten~~ 63633
~~thousand dollars under Title LVII of the Revised Code, the~~ 63634
~~offender~~ person is guilty of a felony of the third degree. If the 63635
tax owed or the fraudulent refund received is greater than ten 63636
thousand dollars, the ~~offender~~ person is guilty of a felony of the 63637
second degree. 63638

(D) Whoever violates a provision of this chapter for which a 63639
penalty is not otherwise prescribed under this section is guilty 63640

of a misdemeanor of the fourth degree. 63641

(E) Whoever violates division (D)(5) of section 5735.19 of 63642
the Revised Code is guilty of a misdemeanor of the first degree. 63643

Sec. 5737.03. An annual excise tax is hereby levied on the 63644
handling of grain, in lieu of all taxes on grain as property of 63645
any person engaged in such business, for all the purposes for 63646
which taxes would otherwise be levied on such grain as property in 63647
the taxing district in which any such business is carried on, 63648
measured as follows: 63649

~~One-half~~ (A) For the statement due in 2005, one-half mill per 63650
bushel upon all wheat and flax handled at one or more places in 63651
this state in any such business during the taxable year, as 63652
defined in section 5737.04 of the Revised Code, and one-fourth 63653
mill per bushel upon all other grain handled. ~~The~~ 63654

(B) For the statement due in 2006, one-fourth mill per bushel 63655
upon all wheat and flax handled at one or more places in this 63656
state in any such business during the taxable year, as defined in 63657
section 5737.04 of the Revised Code, and one-eighth mill per 63658
bushel upon all other grain handled. 63659

(C) No statement or tax is due in 2007 or subsequent years 63660
thereafter. 63661

The tax imposed by this section shall not be paid by a track 63662
buyer, who shall be liable for the personal property taxes only, 63663
as levied by sections 5711.01 to 5711.36, ~~inclusive,~~ of the 63664
Revised Code. 63665

All grain included in the statements required by section 63666
5737.04 of the Revised Code, upon the handling of which a tax is 63667
imposed by this section, is exempt from taxation as personal 63668
property. Any grain that would be included in such statements for 63669
taxable year 2007 or subsequent years thereafter is exempt from 63670

taxation as personal property. 63671

Sec. 5739.01. As used in this chapter: 63672

(A) "Person" includes individuals, receivers, assignees, 63673
trustees in bankruptcy, estates, firms, partnerships, 63674
associations, joint-stock companies, joint ventures, clubs, 63675
societies, corporations, the state and its political subdivisions, 63676
and combinations of individuals of any form. 63677

(B) "Sale" and "selling" include all of the following 63678
transactions for a consideration in any manner, whether absolutely 63679
or conditionally, whether for a price or rental, in money or by 63680
exchange, and by any means whatsoever: 63681

(1) All transactions by which title or possession, or both, 63682
of tangible personal property, is or is to be transferred, or a 63683
license to use or consume tangible personal property is or is to 63684
be granted; 63685

(2) All transactions by which lodging by a hotel is or is to 63686
be furnished to transient guests; 63687

(3) All transactions by which: 63688

(a) An item of tangible personal property is or is to be 63689
repaired, except property, the purchase of which would not be 63690
subject to the tax imposed by section 5739.02 of the Revised Code; 63691

(b) An item of tangible personal property is or is to be 63692
installed, except property, the purchase of which would not be 63693
subject to the tax imposed by section 5739.02 of the Revised Code 63694
or property that is or is to be incorporated into and will become 63695
a part of a production, transmission, transportation, or 63696
distribution system for the delivery of a public utility service; 63697

(c) The service of washing, cleaning, waxing, polishing, or 63698
painting a motor vehicle is or is to be furnished; 63699

(d) Until August 1, 2003, industrial laundry cleaning 63700
services are or are to be provided and, on and after August 1, 63701
2003, laundry and dry cleaning services are or are to be provided; 63702

(e) Automatic data processing, computer services, or 63703
electronic information services are or are to be provided for use 63704
in business when the true object of the transaction is the receipt 63705
by the consumer of automatic data processing, computer services, 63706
or electronic information services rather than the receipt of 63707
personal or professional services to which automatic data 63708
processing, computer services, or electronic information services 63709
are incidental or supplemental. Notwithstanding any other 63710
provision of this chapter, such transactions that occur between 63711
members of an affiliated group are not sales. An affiliated group 63712
means two or more persons related in such a way that one person 63713
owns or controls the business operation of another member of the 63714
group. In the case of corporations with stock, one corporation 63715
owns or controls another if it owns more than fifty per cent of 63716
the other corporation's common stock with voting rights. 63717

(f) Telecommunications service, ~~other than mobile~~ 63718
~~telecommunications service after July 31, 2002~~ including prepaid 63719
calling service, prepaid wireless calling service, or ancillary 63720
service, is or is to be provided, but ~~does not include~~ 63721
~~transactions by which local telecommunications service is obtained~~ 63722
~~from a~~ including coin-operated telephone and ~~paid for by using~~ 63723
~~coin~~ service; 63724

(g) Landscaping and lawn care service is or is to be 63725
provided; 63726

(h) Private investigation and security service is or is to be 63727
provided; 63728

(i) Information services or tangible personal property is 63729
provided or ordered by means of a nine hundred telephone call; 63730

(j) Building maintenance and janitorial service is or is to be provided; 63731
63732

(k) Employment service is or is to be provided; 63733

(l) Employment placement service is or is to be provided; 63734

(m) Exterminating service is or is to be provided; 63735

(n) Physical fitness facility service is or is to be provided; 63736
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(o) Recreation and sports club service is or is to be provided. 63738
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~~(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.~~ 63740
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~~(q)~~ On and after August 1, 2003, satellite broadcasting service is or is to be provided; 63745
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~~(r)~~(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair. 63747
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~~(s)~~(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding 63755
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a certificate of public convenience and necessity issued under 49 63761
U.S.C. 41102; 63762

~~(t)~~(s) On and after August 1, 2003, motor vehicle towing 63763
service is or is to be provided. As used in this division, "motor 63764
vehicle towing service" means the towing or conveyance of a 63765
wrecked, disabled, or illegally parked motor vehicle. 63766

~~(u)~~(t) On and after August 1, 2003, snow removal service is 63767
or is to be provided. As used in this division, "snow removal 63768
service" means the removal of snow by any mechanized means, but 63769
does not include the providing of such service by a person that 63770
has less than five thousand dollars in sales of such service 63771
during the calendar year. 63772

(4) All transactions by which printed, imprinted, 63773
overprinted, lithographic, multilithic, blueprinted, photostatic, 63774
or other productions or reproductions of written or graphic matter 63775
are or are to be furnished or transferred; 63776

(5) The production or fabrication of tangible personal 63777
property for a consideration for consumers who furnish either 63778
directly or indirectly the materials used in the production of 63779
fabrication work; and include the furnishing, preparing, or 63780
serving for a consideration of any tangible personal property 63781
consumed on the premises of the person furnishing, preparing, or 63782
serving such tangible personal property. Except as provided in 63783
section 5739.03 of the Revised Code, a construction contract 63784
pursuant to which tangible personal property is or is to be 63785
incorporated into a structure or improvement on and becoming a 63786
part of real property is not a sale of such tangible personal 63787
property. The construction contractor is the consumer of such 63788
tangible personal property, provided that the sale and 63789
installation of carpeting, the sale and installation of 63790
agricultural land tile, the sale and erection or installation of 63791
portable grain bins, or the provision of landscaping and lawn care 63792

service and the transfer of property as part of such service is 63793
never a construction contract. 63794

As used in division (B)(5) of this section: 63795

(a) "Agricultural land tile" means fired clay or concrete 63796
tile, or flexible or rigid perforated plastic pipe or tubing, 63797
incorporated or to be incorporated into a subsurface drainage 63798
system appurtenant to land used or to be used directly in 63799
production by farming, agriculture, horticulture, or floriculture. 63800
The term does not include such materials when they are or are to 63801
be incorporated into a drainage system appurtenant to a building 63802
or structure even if the building or structure is used or to be 63803
used in such production. 63804

(b) "Portable grain bin" means a structure that is used or to 63805
be used by a person engaged in farming or agriculture to shelter 63806
the person's grain and that is designed to be disassembled without 63807
significant damage to its component parts. 63808

(6) All transactions in which all of the shares of stock of a 63809
closely held corporation are transferred, if the corporation is 63810
not engaging in business and its entire assets consist of boats, 63811
planes, motor vehicles, or other tangible personal property 63812
operated primarily for the use and enjoyment of the shareholders; 63813

(7) All transactions in which a warranty, maintenance or 63814
service contract, or similar agreement by which the vendor of the 63815
warranty, contract, or agreement agrees to repair or maintain the 63816
tangible personal property of the consumer is or is to be 63817
provided; 63818

(8) ~~;(9)~~ The transfer of copyrighted motion picture films 63819
used solely for advertising purposes, except that the transfer of 63820
such films for exhibition purposes is not a sale. 63821

(9) On and after August 1, 2003, all transactions by which 63822

tangible personal property is or is to be stored, except such 63823
property that the consumer of the storage holds for sale in the 63824
regular course of business. 63825

Except ~~Other than~~ as provided in this section, "sale" and 63826
"selling" do not include transfers of interest in leased property 63827
where the original lessee and the terms of the original lease 63828
agreement remain unchanged, or professional, insurance, or 63829
personal service transactions that involve the transfer of 63830
tangible personal property as an inconsequential element, for 63831
which no separate charges are made. 63832

(C) "Vendor" means the person providing the service or by 63833
whom the transfer effected or license given by a sale is or is to 63834
be made or given and, for sales described in division (B)(3)(i) of 63835
this section, the telecommunications service vendor that provides 63836
the nine hundred telephone service; if two or more persons are 63837
engaged in business at the same place of business under a single 63838
trade name in which all collections on account of sales by each 63839
are made, such persons shall constitute a single vendor. 63840

Physicians, dentists, hospitals, and veterinarians who are 63841
engaged in selling tangible personal property as received from 63842
others, such as eyeglasses, mouthwashes, dentifrices, or similar 63843
articles, are vendors. Veterinarians who are engaged in 63844
transferring to others for a consideration drugs, the dispensing 63845
of which does not require an order of a licensed veterinarian or 63846
physician under federal law, are vendors. 63847

(D)(1) "Consumer" means the person for whom the service is 63848
provided, to whom the transfer effected or license given by a sale 63849
is or is to be made or given, to whom the service described in 63850
division (B)(3)(f) or (i) of this section is charged, or to whom 63851
the admission is granted. 63852

(2) Physicians, dentists, hospitals, and blood banks operated 63853

by nonprofit institutions and persons licensed to practice 63854
veterinary medicine, surgery, and dentistry are consumers of all 63855
tangible personal property and services purchased by them in 63856
connection with the practice of medicine, dentistry, the rendition 63857
of hospital or blood bank service, or the practice of veterinary 63858
medicine, surgery, and dentistry. In addition to being consumers 63859
of drugs administered by them or by their assistants according to 63860
their direction, veterinarians also are consumers of drugs that 63861
under federal law may be dispensed only by or upon the order of a 63862
licensed veterinarian or physician, when transferred by them to 63863
others for a consideration to provide treatment to animals as 63864
directed by the veterinarian. 63865

(3) A person who performs a facility management, or similar 63866
service contract for a contractee is a consumer of all tangible 63867
personal property and services purchased for use in connection 63868
with the performance of such contract, regardless of whether title 63869
to any such property vests in the contractee. The purchase of such 63870
property and services is not subject to the exception for resale 63871
under division (E)(1) of this section. 63872

(4)(a) In the case of a person who purchases printed matter 63873
for the purpose of distributing it or having it distributed to the 63874
public or to a designated segment of the public, free of charge, 63875
that person is the consumer of that printed matter, and the 63876
purchase of that printed matter for that purpose is a sale. 63877

(b) In the case of a person who produces, rather than 63878
purchases, printed matter for the purpose of distributing it or 63879
having it distributed to the public or to a designated segment of 63880
the public, free of charge, that person is the consumer of all 63881
tangible personal property and services purchased for use or 63882
consumption in the production of that printed matter. That person 63883
is not entitled to claim exemption under division (B)(43)(f) of 63884
section 5739.02 of the Revised Code for any material incorporated 63885

into the printed matter or any equipment, supplies, or services 63886
primarily used to produce the printed matter. 63887

(c) The distribution of printed matter to the public or to a 63888
designated segment of the public, free of charge, is not a sale to 63889
the members of the public to whom the printed matter is 63890
distributed or to any persons who purchase space in the printed 63891
matter for advertising or other purposes. 63892

(5) A person who makes sales of any of the services listed in 63893
division (B)(3) of this section is the consumer of any tangible 63894
personal property used in performing the service. The purchase of 63895
that property is not subject to the resale exception under 63896
division (E)(1) of this section. 63897

(6) A person who engages in highway transportation for hire 63898
is the consumer of all packaging materials purchased by that 63899
person and used in performing the service, except for packaging 63900
materials sold by such person in a transaction separate from the 63901
service. 63902

(E) "Retail sale" and "sales at retail" include all sales, 63903
except those in which the purpose of the consumer is to resell the 63904
thing transferred or benefit of the service provided, by a person 63905
engaging in business, in the form in which the same is, or is to 63906
be, received by the person. 63907

(F) "Business" includes any activity engaged in by any person 63908
with the object of gain, benefit, or advantage, either direct or 63909
indirect. "Business" does not include the activity of a person in 63910
managing and investing the person's own funds. 63911

(G) "Engaging in business" means commencing, conducting, or 63912
continuing in business, and liquidating a business when the 63913
liquidator thereof holds itself out to the public as conducting 63914
such business. Making a casual sale is not engaging in business. 63915

(H)(1)(a) "Price," except as provided in divisions (H)(2) and 63916
(3) of this section, means the total amount of consideration, 63917
including cash, credit, property, and services, for which tangible 63918
personal property or services are sold, leased, or rented, valued 63919
in money, whether received in money or otherwise, without any 63920
deduction for any of the following: 63921

(i) The vendor's cost of the property sold; 63922

(ii) The cost of materials used, labor or service costs, 63923
interest, losses, all costs of transportation to the vendor, all 63924
taxes imposed on the vendor, including the tax imposed under 63925
Chapter 5751. of the Revised Code, and any other expense of the 63926
vendor; 63927

(iii) Charges by the vendor for any services necessary to 63928
complete the sale; 63929

(iv) On and after August 1, 2003, delivery charges. As used 63930
in this division, "delivery charges" means charges by the vendor 63931
for preparation and delivery to a location designated by the 63932
consumer of tangible personal property or a service, including 63933
transportation, shipping, postage, handling, crating, and packing. 63934

(v) Installation charges; 63935

~~(vi) The value of exempt tangible personal property given to 63936
the consumer where taxable and exempt tangible personal property 63937
have been bundled together and sold by the vendor as a single 63938
product or piece of merchandise Credit for any trade-in. 63939~~

(b) "Price" includes consideration received by the vendor 63940
from a third party, if the vendor actually receives the 63941
consideration from a party other than the consumer, and the 63942
consideration is directly related to a price reduction or discount 63943
on the sale; the vendor has an obligation to pass the price 63944
reduction or discount through to the consumer; the amount of the 63945

consideration attributable to the sale is fixed and determinable 63946
by the vendor at the time of the sale of the item to the consumer; 63947
and one of the following criteria is met: 63948

(i) The consumer presents a coupon, certificate, or other 63949
document to the vendor to claim a price reduction or discount 63950
where the coupon, certificate, or document is authorized, 63951
distributed, or granted by a third party with the understanding 63952
that the third party will reimburse any vendor to whom the coupon, 63953
certificate, or document is presented; 63954

(ii) The consumer identifies the consumer's self to the 63955
seller as a member of a group or organization entitled to a price 63956
reduction or discount. A preferred customer card that is available 63957
to any patron does not constitute membership in such a group or 63958
organization. 63959

(iii) The price reduction or discount is identified as a 63960
third party price reduction or discount on the invoice received by 63961
the consumer, or on a coupon, certificate, or other document 63962
presented by the consumer. 63963

(c) "Price" does not include any of the following: 63964

(i) Discounts, including cash, term, or coupons that are not 63965
reimbursed by a third party that are allowed by a vendor and taken 63966
by a consumer on a sale; 63967

(ii) Interest, financing, and carrying charges from credit 63968
extended on the sale of tangible personal property or services, if 63969
the amount is separately stated on the invoice, bill of sale, or 63970
similar document given to the purchaser; 63971

(iii) Any taxes legally imposed directly on the consumer that 63972
are separately stated on the invoice, bill of sale, or similar 63973
document given to the consumer. For the purpose of this division, 63974
the tax imposed under Chapter 5751. of the Revised Code is not a 63975
tax directly on the consumer, even if the tax or a portion thereof 63976

is separately stated. 63977

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state. 63978
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(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade. 63982
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(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft. 63989
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(4) In the case of a transaction in which telecommunications service, mobile telecommunications service, or cable television service is sold in a bundled transaction with other distinct services for a single price that is not itemized, the entire price is subject to the taxes levied under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code, unless the vendor can reasonably identify the nontaxable portion from its books and records kept in the regular course of business. Upon the request of the consumer, the vendor shall disclose to the consumer the selling price for the taxable services included in the selling 63999
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price for the taxable and nontaxable services billed on an 64009
aggregated basis. The burden of proving any nontaxable charges is 64010
on the vendor. 64011

(I) "Receipts" means the total amount of the prices of the 64012
sales of vendors, provided that cash discounts allowed and taken 64013
on sales at the time they are consummated are not included, minus 64014
any amount deducted as a bad debt pursuant to section 5739.121 of 64015
the Revised Code. "Receipts" does not include the sale price of 64016
property returned or services rejected by consumers when the full 64017
sale price and tax are refunded either in cash or by credit. 64018

(J) "Place of business" means any location at which a person 64019
engages in business. 64020

(K) "Premises" includes any real property or portion thereof 64021
upon which any person engages in selling tangible personal 64022
property at retail or making retail sales and also includes any 64023
real property or portion thereof designated for, or devoted to, 64024
use in conjunction with the business engaged in by such person. 64025

(L) "Casual sale" means a sale of an item of tangible 64026
personal property that was obtained by the person making the sale, 64027
through purchase or otherwise, for the person's own use and was 64028
previously subject to any state's taxing jurisdiction on its sale 64029
or use, and includes such items acquired for the seller's use that 64030
are sold by an auctioneer employed directly by the person for such 64031
purpose, provided the location of such sales is not the 64032
auctioneer's permanent place of business. As used in this 64033
division, "permanent place of business" includes any location 64034
where such auctioneer has conducted more than two auctions during 64035
the year. 64036

(M) "Hotel" means every establishment kept, used, maintained, 64037
advertised, or held out to the public to be a place where sleeping 64038
accommodations are offered to guests, in which five or more rooms 64039

are used for the accommodation of such guests, whether the rooms 64040
are in one or several structures. 64041

(N) "Transient guests" means persons occupying a room or 64042
rooms for sleeping accommodations for less than thirty consecutive 64043
days. 64044

(O) "Making retail sales" means the effecting of transactions 64045
wherein one party is obligated to pay the price and the other 64046
party is obligated to provide a service or to transfer title to or 64047
possession of the item sold. "Making retail sales" does not 64048
include the preliminary acts of promoting or soliciting the retail 64049
sales, other than the distribution of printed matter which 64050
displays or describes and prices the item offered for sale, nor 64051
does it include delivery of a predetermined quantity of tangible 64052
personal property or transportation of property or personnel to or 64053
from a place where a service is performed, regardless of whether 64054
the vendor is a delivery vendor. 64055

(P) "Used directly in the rendition of a public utility 64056
service" means that property that is to be incorporated into and 64057
will become a part of the consumer's production, transmission, 64058
transportation, or distribution system and that retains its 64059
classification as tangible personal property after such 64060
incorporation; fuel or power used in the production, transmission, 64061
transportation, or distribution system; and tangible personal 64062
property used in the repair and maintenance of the production, 64063
transmission, transportation, or distribution system, including 64064
only such motor vehicles as are specially designed and equipped 64065
for such use. Tangible personal property and services used 64066
primarily in providing highway transportation for hire are not 64067
used directly in the rendition of a public utility service. 64068

(Q) "Refining" means removing or separating a desirable 64069
product from raw or contaminated materials by distillation or 64070

physical, mechanical, or chemical processes. 64071

(R) "Assembly" and "assembling" mean attaching or fitting 64072
together parts to form a product, but do not include packaging a 64073
product. 64074

(S) "Manufacturing operation" means a process in which 64075
materials are changed, converted, or transformed into a different 64076
state or form from which they previously existed and includes 64077
refining materials, assembling parts, and preparing raw materials 64078
and parts by mixing, measuring, blending, or otherwise committing 64079
such materials or parts to the manufacturing process. 64080
"Manufacturing operation" does not include packaging. 64081

(T) "Fiscal officer" means, with respect to a regional 64082
transit authority, the secretary-treasurer thereof, and with 64083
respect to a county that is a transit authority, the fiscal 64084
officer of the county transit board if one is appointed pursuant 64085
to section 306.03 of the Revised Code or the county auditor if the 64086
board of county commissioners operates the county transit system. 64087

(U) "Transit authority" means a regional transit authority 64088
created pursuant to section 306.31 of the Revised Code or a county 64089
in which a county transit system is created pursuant to section 64090
306.01 of the Revised Code. For the purposes of this chapter, a 64091
transit authority must extend to at least the entire area of a 64092
single county. A transit authority that includes territory in more 64093
than one county must include all the area of the most populous 64094
county that is a part of such transit authority. County population 64095
shall be measured by the most recent census taken by the United 64096
States census bureau. 64097

(V) "Legislative authority" means, with respect to a regional 64098
transit authority, the board of trustees thereof, and with respect 64099
to a county that is a transit authority, the board of county 64100
commissioners. 64101

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(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;
 - (d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;
 - (e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;
 - (f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;
 - (g) Testing of business procedures;
 - (h) Training personnel in business procedure applications;
 - (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;
 - (j) Providing debt collection services by any oral, written,

graphic, or electronic means. 64162

The services listed in divisions (Y)(2)(a) to (j) of this 64163
section are not automatic data processing or computer services. 64164

(Z) "Highway transportation for hire" means the 64165
transportation of personal property belonging to others for 64166
consideration by any of the following: 64167

(1) The holder of a permit or certificate issued by this 64168
state or the United States authorizing the holder to engage in 64169
transportation of personal property belonging to others for 64170
consideration over or on highways, roadways, streets, or any 64171
similar public thoroughfare; 64172

(2) A person who engages in the transportation of personal 64173
property belonging to others for consideration over or on 64174
highways, roadways, streets, or any similar public thoroughfare 64175
but who could not have engaged in such transportation on December 64176
11, 1985, unless the person was the holder of a permit or 64177
certificate of the types described in division (Z)(1) of this 64178
section; 64179

(3) A person who leases a motor vehicle to and operates it 64180
for a person described by division (Z)(1) or (2) of this section. 64181

(AA)(1) "Telecommunications service" means the ~~transmission~~ 64182
~~of any interactive, two-way electromagnetic communications,~~ 64183
~~including voice, image, data, and information, through the use of~~ 64184
~~any medium such as wires, cables, microwaves, cellular radio,~~ 64185
~~radio waves, light waves, or any combination of those or similar~~ 64186
~~media. "Telecommunications service" includes message toll service~~ 64187
~~even though the vendor provides the message toll service by means~~ 64188
~~of wide area transmission type service or private communications~~ 64189
~~service purchased from another telecommunications service~~ 64190
~~provider, and other related fees and ancillary services, including~~ 64191
~~universal service fees, detailed billing service, directory~~ 64192

assistance, service initiation, voice mail service, and vertical 64193
services, such as caller ID and three way calling electronic 64194
transmission, conveyance, or routing of voice, data, audio, video, 64195
or any other information or signals to a point, or between or 64196
among points. "Telecommunications service" includes such 64197
transmission, conveyance, or routing in which computer processing 64198
applications are used to act on the form, code, or protocol of the 64199
content for purposes of transmission, conveyance, or routing 64200
without regard to whether the service is referred to as voice-over 64201
internet protocol service or is classified by the federal 64202
communications commission as enhanced or value-added. 64203
"Telecommunications service" does not include any of the 64204
following: 64205

~~(1) Sales of telecommunications service billed to persons~~ 64206
~~before January 1, 2004, by telephone companies subject to the~~ 64207
~~excise tax imposed by Chapter 5727. of the Revised Code;~~ 64208

~~(2) Sales of telecommunications service to a provider of~~ 64209
~~telecommunications service or of mobile telecommunications~~ 64210
~~service, including access services, for use in providing~~ 64211
~~telecommunications service or mobile telecommunications service;~~ 64212

~~(3) Value added nonvoice services in which computer~~ 64213
~~processing applications are used to act on the form, content,~~ 64214
~~code, or protocol of the information to be transmitted;~~ 64215

~~(4) Transmission of interactive video programming by a cable~~ 64216
~~television system as defined in section 505.90 of the Revised~~ 64217
~~Code;~~ 64218

~~(5) After July 31, 2002, mobile telecommunications service~~ 64219
~~(a) Data processing and information services that allow data to be~~ 64220
~~generated, acquired, stored, processed, or retrieved and delivered~~ 64221
~~by an electronic transmission to a consumer where the consumer's~~ 64222
~~primary purpose for the underlying transaction is the processed~~ 64223

<u>data or information;</u>	64224
<u>(b) Installation or maintenance of wiring or equipment on a customer's premises;</u>	64225
<u>(c) Tangible personal property;</u>	64226
<u>(d) Advertising, including directory advertising;</u>	64227
<u>(e) Billing and collection services provided to third parties;</u>	64228
<u>(f) Internet access service;</u>	64229
<u>(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;</u>	64230
<u>(h) Ancillary service;</u>	64231
<u>(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.</u>	64232
<u>(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:</u>	64233
<u>(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.</u>	64234
<u>(b) "Detailed telecommunications billing service" means an</u>	64235
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ancillary service of separately stating information pertaining to 64254
individual calls on a customer's billing statement. 64255

(c) "Directory assistance" means an ancillary service of 64256
providing telephone number or address information. 64257

(d) "Vertical service" means an ancillary service that is 64258
offered in connection with one or more telecommunications 64259
services, which offers advanced calling features that allow 64260
customers to identify callers and manage multiple calls and call 64261
connections, including conference bridging service. 64262

(e) "Voice mail service" means an ancillary service that 64263
enables the customer to store, send, or receive recorded messages. 64264
"Voice mail service" does not include any vertical services that 64265
the customer may be required to have in order to utilize the voice 64266
mail service. 64267

(3) "900 service" means an inbound toll telecommunications 64268
service purchased by a subscriber that allows the subscriber's 64269
customers to call in to the subscriber's prerecorded announcement 64270
or live service, and which is typically marketed under the name 64271
"900" service and any subsequent numbers designated by the federal 64272
communications commission. "900 service" does not include the 64273
charge for collection services provided by the seller of the 64274
telecommunications service to the subscriber, or services or 64275
products sold by the subscriber to the subscriber's customer. 64276

(4) "Prepaid calling service" means the right to access 64277
exclusively telecommunications services, which must be paid for in 64278
advance and which enables the origination of calls using an access 64279
number or authorization code, whether manually or electronically 64280
dialed, and that is sold in predetermined units of dollars of 64281
which the number declines with use in a known amount. 64282

(5) "Prepaid wireless calling service" means a 64283
telecommunications service that provides the right to utilize 64284

mobile telecommunications service as well as other 64285
non-telecommunications services, including the download of digital 64286
products delivered electronically, and content and ancillary 64287
services, that must be paid for in advance and that is sold in 64288
predetermined units of dollars of which the number declines with 64289
use in a known amount. 64290

(6) "Value-added non-voice data service" means a 64291
telecommunications service in which computer processing 64292
applications are used to act on the form, content, code, or 64293
protocol of the information or data primarily for a purpose other 64294
than transmission, conveyance, or routing. 64295

(7) "Coin-operated telephone service" means a 64296
telecommunications service paid for by inserting money into a 64297
telephone accepting direct deposits of money to operate. 64298

(8) "Customer" has the same meaning as in section 5739.034 of 64299
the Revised Code. 64300

(BB) "Laundry and dry cleaning services" means removing soil 64301
or dirt from towels, linens, articles of clothing, or other fabric 64302
items that belong to others and supplying towels, linens, articles 64303
of clothing, or other fabric items. "Laundry and dry cleaning 64304
services" does not include the provision of self-service 64305
facilities for use by consumers to remove soil or dirt from 64306
towels, linens, articles of clothing, or other fabric items. 64307

(CC) "Magazines distributed as controlled circulation 64308
publications" means magazines containing at least twenty-four 64309
pages, at least twenty-five per cent editorial content, issued at 64310
regular intervals four or more times a year, and circulated 64311
without charge to the recipient, provided that such magazines are 64312
not owned or controlled by individuals or business concerns which 64313
conduct such publications as an auxiliary to, and essentially for 64314
the advancement of the main business or calling of, those who own 64315

or control them. 64316

(DD) "Landscaping and lawn care service" means the services 64317
of planting, seeding, sodding, removing, cutting, trimming, 64318
pruning, mulching, aerating, applying chemicals, watering, 64319
fertilizing, and providing similar services to establish, promote, 64320
or control the growth of trees, shrubs, flowers, grass, ground 64321
cover, and other flora, or otherwise maintaining a lawn or 64322
landscape grown or maintained by the owner for ornamentation or 64323
other nonagricultural purpose. However, "landscaping and lawn care 64324
service" does not include the providing of such services by a 64325
person who has less than five thousand dollars in sales of such 64326
services during the calendar year. 64327

(EE) "Private investigation and security service" means the 64328
performance of any activity for which the provider of such service 64329
is required to be licensed pursuant to Chapter 4749. of the 64330
Revised Code, or would be required to be so licensed in performing 64331
such services in this state, and also includes the services of 64332
conducting polygraph examinations and of monitoring or overseeing 64333
the activities on or in, or the condition of, the consumer's home, 64334
business, or other facility by means of electronic or similar 64335
monitoring devices. "Private investigation and security service" 64336
does not include special duty services provided by off-duty police 64337
officers, deputy sheriffs, and other peace officers regularly 64338
employed by the state or a political subdivision. 64339

(FF) "Information services" means providing conversation, 64340
giving consultation or advice, playing or making a voice or other 64341
recording, making or keeping a record of the number of callers, 64342
and any other service provided to a consumer by means of a nine 64343
hundred telephone call, except when the nine hundred telephone 64344
call is the means by which the consumer makes a contribution to a 64345
recognized charity. 64346

(GG) "Research and development" means designing, creating, or 64347
formulating new or enhanced products, equipment, or manufacturing 64348
processes, and also means conducting scientific or technological 64349
inquiry and experimentation in the physical sciences with the goal 64350
of increasing scientific knowledge which may reveal the bases for 64351
new or enhanced products, equipment, or manufacturing processes. 64352

(HH) "Qualified research and development equipment" means 64353
capitalized tangible personal property, and leased personal 64354
property that would be capitalized if purchased, used by a person 64355
primarily to perform research and development. Tangible personal 64356
property primarily used in testing, as defined in division (A)(4) 64357
of section 5739.011 of the Revised Code, or used for recording or 64358
storing test results, is not qualified research and development 64359
equipment unless such property is primarily used by the consumer 64360
in testing the product, equipment, or manufacturing process being 64361
created, designed, or formulated by the consumer in the research 64362
and development activity or in recording or storing such test 64363
results. 64364

(II) "Building maintenance and janitorial service" means 64365
cleaning the interior or exterior of a building and any tangible 64366
personal property located therein or thereon, including any 64367
services incidental to such cleaning for which no separate charge 64368
is made. However, "building maintenance and janitorial service" 64369
does not include the providing of such service by a person who has 64370
less than five thousand dollars in sales of such service during 64371
the calendar year. 64372

(JJ) "Employment service" means providing or supplying 64373
personnel, on a temporary or long-term basis, to perform work or 64374
labor under the supervision or control of another, when the 64375
personnel so supplied receive their wages, salary, or other 64376
compensation from the provider of the service. "Employment 64377
service" does not include: 64378

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.	64379 64380 64381
(2) Medical and health care services.	64382
(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.	64383 64384 64385 64386
(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.	64387 64388
(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.	64389 64390 64391
(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.	64392 64393 64394 64395 64396
(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.	64397 64398 64399 64400 64401 64402 64403
(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the	64404 64405 64406 64407 64408

facilities of the organization. "Recreation and sports club" means 64409
an organization that has ownership of, or controls or leases on a 64410
continuing, long-term basis, the facilities used by its members 64411
and includes an aviation club, gun or shooting club, yacht club, 64412
card club, swimming club, tennis club, golf club, country club, 64413
riding club, amateur sports club, or similar organization. 64414

(OO) "Livestock" means farm animals commonly raised for food 64415
or food production, and includes but is not limited to cattle, 64416
sheep, goats, swine, and poultry. "Livestock" does not include 64417
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 64418
animals for use in laboratories or for exhibition, or other 64419
animals not commonly raised for food or food production. 64420

(PP) "Livestock structure" means a building or structure used 64421
exclusively for the housing, raising, feeding, or sheltering of 64422
livestock, and includes feed storage or handling structures and 64423
structures for livestock waste handling. 64424

(QQ) "Horticulture" means the growing, cultivation, and 64425
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 64426
and nursery stock. As used in this division, "nursery stock" has 64427
the same meaning as in section 927.51 of the Revised Code. 64428

(RR) "Horticulture structure" means a building or structure 64429
used exclusively for the commercial growing, raising, or 64430
overwintering of horticultural products, and includes the area 64431
used for stocking, storing, and packing horticultural products 64432
when done in conjunction with the production of those products. 64433

(SS) "Newspaper" means an unbound publication bearing a title 64434
or name that is regularly published, at least as frequently as 64435
biweekly, and distributed from a fixed place of business to the 64436
public in a specific geographic area, and that contains a 64437
substantial amount of news matter of international, national, or 64438
local events of interest to the general public. 64439

(TT) "Professional racing team" means a person that employs 64440
at least twenty full-time employees for the purpose of conducting 64441
a motor vehicle racing business for profit. The person must 64442
conduct the business with the purpose of racing one or more motor 64443
racing vehicles in at least ten competitive professional racing 64444
events each year that comprise all or part of a motor racing 64445
series sanctioned by one or more motor racing sanctioning 64446
organizations. A "motor racing vehicle" means a vehicle for which 64447
the chassis, engine, and parts are designed exclusively for motor 64448
racing, and does not include a stock or production model vehicle 64449
that may be modified for use in racing. For the purposes of this 64450
division: 64451

(1) A "competitive professional racing event" is a motor 64452
vehicle racing event sanctioned by one or more motor racing 64453
sanctioning organizations, at which aggregate cash prizes in 64454
excess of eight hundred thousand dollars are awarded to the 64455
competitors. 64456

(2) "Full-time employee" means an individual who is employed 64457
for consideration for thirty-five or more hours a week, or who 64458
renders any other standard of service generally accepted by custom 64459
or specified by contract as full-time employment. 64460

(UU)(1) "Lease" or "rental" means any transfer of the 64461
possession or control of tangible personal property for a fixed or 64462
indefinite term, for consideration. "Lease" or "rental" includes 64463
future options to purchase or extend, and agreements described in 64464
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 64465
the amount of consideration may be increased or decreased by 64466
reference to the amount realized upon the sale or disposition of 64467
the property. "Lease" or "rental" does not include: 64468

(a) A transfer of possession or control of tangible personal 64469
property under a security agreement or a deferred payment plan 64470

that requires the transfer of title upon completion of the 64471
required payments; 64472

(b) A transfer of possession or control of tangible personal 64473
property under an agreement that requires the transfer of title 64474
upon completion of required payments and payment of an option 64475
price that does not exceed the greater of one hundred dollars or 64476
one per cent of the total required payments; 64477

(c) Providing tangible personal property along with an 64478
operator for a fixed or indefinite period of time, if the operator 64479
is necessary for the property to perform as designed. For purposes 64480
of this division, the operator must do more than maintain, 64481
inspect, or set-up the tangible personal property. 64482

(2) "Lease" and "rental," as defined in division (UU) of this 64483
section, shall not apply to leases or rentals that exist before 64484
~~the effective date of this amendment~~ June 26, 2003. 64485

(3) "Lease" and "rental" have the same meaning as in division 64486
(UU)(1) of this section regardless of whether a transaction is 64487
characterized as a lease or rental under generally accepted 64488
accounting principles, the Internal Revenue Code, Title XIII of 64489
the Revised Code, or other federal, state, or local laws. 64490

(VV) "Mobile telecommunications service" has the same meaning 64491
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 64492
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 64493
on and after August 1, 2003, includes related fees and ancillary 64494
services, including universal service fees, detailed billing 64495
service, directory assistance, service initiation, voice mail 64496
service, and vertical services, such as caller ID and three-way 64497
calling. 64498

(WW) "Certified service provider" has the same meaning as in 64499
section 5740.01 of the Revised Code. 64500

(XX) "Satellite broadcasting service" means the distribution 64501
or broadcasting of programming or services by satellite directly 64502
to the subscriber's receiving equipment without the use of ground 64503
receiving or distribution equipment, except the subscriber's 64504
receiving equipment or equipment used in the uplink process to the 64505
satellite, and includes all service and rental charges, premium 64506
channels or other special services, installation and repair 64507
service charges, and any other charges having any connection with 64508
the provision of the satellite broadcasting service. 64509

(YY) "Tangible personal property" means personal property 64510
that can be seen, weighed, measured, felt, or touched, or that is 64511
in any other manner perceptible to the senses. For purposes of 64512
this chapter and Chapter 5741. of the Revised Code, "tangible 64513
personal property" includes motor vehicles, electricity, water, 64514
gas, steam, and prewritten computer software. 64515

(ZZ) "Direct mail" means printed material delivered or 64516
distributed by United States mail or other delivery service to a 64517
mass audience or to addressees on a mailing list provided by the 64518
consumer or at the direction of the consumer when the cost of the 64519
items are not billed directly to the recipients. "Direct mail" 64520
includes tangible personal property supplied directly or 64521
indirectly by the consumer to the direct mail vendor for inclusion 64522
in the package containing the printed material. "Direct mail" does 64523
not include multiple items of printed material delivered to a 64524
single address. 64525

(AAA) "Computer" means an electronic device that accepts 64526
information in digital or similar form and manipulates it for a 64527
result based on a sequence of instructions. 64528

(BBB) "Computer software" means a set of coded instructions 64529
designed to cause a computer or automatic data processing 64530
equipment to perform a task. 64531

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(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 64564
than coffee, tea, and cocoa; root beer and root beer extracts; 64565
malt and malt extracts; mineral oils, cod liver oils, and halibut 64566
liver oil; medicines, including tonics, vitamin preparations, and 64567
other products sold primarily for their medicinal properties; and 64568
water, including mineral, bottled, and carbonated waters, and ice. 64569~~

~~(2) On and after July 1, 2004, "food "Food" means substances, 64570
whether in liquid, concentrated, solid, frozen, dried, or 64571
dehydrated form, that are sold for ingestion or chewing by humans 64572
and are consumed for their taste or nutritional value. "Food" does 64573
not include alcoholic beverages, dietary supplements, soft drinks, 64574
or tobacco. 64575~~

~~(3)(2) As used in division (EEE)(2)(1) of this section: 64576~~

~~(a) "Alcoholic beverages" means beverages that are suitable 64577
for human consumption and contain one-half of one per cent or more 64578
of alcohol by volume. 64579~~

~~(b) "Dietary supplements" means any product, other than 64580
tobacco, that is intended to supplement the diet and that is 64581
intended for ingestion in tablet, capsule, powder, softgel, 64582
gelcap, or liquid form, or, if not intended for ingestion in such 64583
a form, is not represented as conventional food for use as a sole 64584
item of a meal or of the diet; that is required to be labeled as a 64585
dietary supplement, identifiable by the "supplement facts" box 64586
found on the label, as required by 21 C.F.R. 101.36; and that 64587
contains one or more of the following dietary ingredients: 64588~~

~~(i) A vitamin; 64589~~

~~(ii) A mineral; 64590~~

~~(iii) An herb or other botanical; 64591~~

~~(iv) An amino acid; 64592~~

~~(v) A dietary substance for use by humans to supplement the 64593~~

diet by increasing the total dietary intake; 64594

(vi) A concentrate, metabolite, constituent, extract, or 64595
combination of any ingredient described in divisions 64596
(~~EEE~~)(~~3~~)(2)(b)(i) to (v) of this section. 64597

(c) "Soft drinks" means nonalcoholic beverages that contain 64598
natural or artificial sweeteners. "Soft drinks" does not include 64599
beverages that contain milk or milk products, soy, rice, or 64600
similar milk substitutes, or that contains greater than fifty per 64601
cent vegetable or fruit juice by volume. 64602

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 64603
tobacco, or any other item that contains tobacco. 64604

(FFF) "Drug" means a compound, substance, or preparation, and 64605
any component of a compound, substance, or preparation, other than 64606
food, dietary supplements, or alcoholic beverages that is 64607
recognized in the official United States pharmacopoeia, official 64608
homeopathic pharmacopoeia of the United States, or official 64609
national formulary, and supplements to them; is intended for use 64610
in the diagnosis, cure, mitigation, treatment, or prevention of 64611
disease; or is intended to affect the structure or any function of 64612
the body. 64613

(GGG) "Prescription" means an order, formula, or recipe 64614
issued in any form of oral, written, electronic, or other means of 64615
transmission by a duly licensed practitioner authorized by the 64616
laws of this state to issue a prescription. 64617

(HHH) "Durable medical equipment" means equipment, including 64618
repair and replacement parts for such equipment, that can 64619
withstand repeated use, is primarily and customarily used to serve 64620
a medical purpose, generally is not useful to a person in the 64621
absence of illness or injury, and is not worn in or on the body. 64622
"Durable medical equipment" does not include mobility enhancing 64623
equipment. 64624

(III) "Mobility enhancing equipment" means equipment, 64625
including repair and replacement parts for such equipment, that is 64626
primarily and customarily used to provide or increase the ability 64627
to move from one place to another and is appropriate for use 64628
either in a home or a motor vehicle, that is not generally used by 64629
persons with normal mobility, and that does not include any motor 64630
vehicle or equipment on a motor vehicle normally provided by a 64631
motor vehicle manufacturer. "Mobility enhancing equipment" does 64632
not include durable medical equipment. 64633

(JJJ) "Prosthetic device" means a replacement, corrective, or 64634
supportive device, including repair and replacement parts for the 64635
device, worn on or in the human body to artificially replace a 64636
missing portion of the body, prevent or correct physical deformity 64637
or malfunction, or support a weak or deformed portion of the body. 64638
As used in this division, "prosthetic device" does not include 64639
corrective eyeglasses, contact lenses, or dental prosthesis. 64640

(KKK)(1) "Fractional aircraft ownership program" means a 64641
program in which persons within an affiliated group sell and 64642
manage fractional ownership program aircraft, provided that at 64643
least one hundred airworthy aircraft are operated in the program 64644
and the program meets all of the following criteria: 64645

(a) Management services are provided by at least one program 64646
manager within an affiliated group on behalf of the fractional 64647
owners. 64648

(b) Each program aircraft is owned or possessed by at least 64649
one fractional owner. 64650

(c) Each fractional owner owns or possesses at least a 64651
one-sixteenth interest in at least one fixed-wing program 64652
aircraft. 64653

(d) A dry-lease aircraft interchange arrangement is in effect 64654
among all of the fractional owners. 64655

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(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 64687
agreement under division (KKK)(1)(e) of this section. 64688

Sec. 5739.012. (A) As used in this section: 64689

(1) "Bundled transaction" means the retail sale of two or 64690
more products, except real property and services to real property, 64691
where the products are otherwise distinct and identifiable 64692
products and are sold for one non-itemized price. "Bundled 64693
transaction" does not include the sale of any products in which 64694
the sales price varies, or is negotiable, based on the selection 64695
by the consumer of the products included in the transaction. 64696

As used in division (A)(1) of this section: 64697

(a) "Distinct and identifiable products" does not include any 64698
of the following: 64699

(i) Packaging, including containers, boxes, sacks, bags, and 64700
bottles, and packaging materials, including wrapping, labels, 64701
tags, and instruction guides that accompany the retail sale of the 64702
products and are incidental or immaterial to the retail sale 64703
thereof; 64704

(ii) A product provided free of charge with the required 64705
purchase of another product. A product is provided free of charge 64706
if the sales price of the product purchased does not vary 64707
depending on the inclusion of the product provided free of charge. 64708

(iii) Items included in the definition of "price" under 64709
division (H) of section 5739.01 of the Revised Code. 64710

(b) "One non-itemized price" does not include a price that is 64711
separately identified by product on binding sales or other 64712
supporting sales-related documents made available to the consumer 64713
in paper or electronic form, including an invoice, bill of sale, 64714
receipt, contract, service agreement, lease agreement, periodic 64715
notice of rates and services, rate card, or price list. 64716

(2) "De minimis" means the vendor's or seller's purchase price or sales price of taxable products is ten per cent or less of the total purchase price or sales price of bundled products. Vendors and sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis, and shall use the full term of a service contract to determine if the taxable products are de minimis. Vendors and sellers shall not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. 64717
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(3) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66, and the label includes either a "Drug Facts" panel or a statement of the active ingredients with a list of those ingredients contained in the drug. 64727
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(B) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is any of the following: 64732
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(1) A retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service; 64735
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(2) A retail sale of services where one service is provided that is essential to the use or receipt of a second service, the first service is provided exclusively in connection with the second service, and the true object of the transaction is the second service; 64739
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(3) A transaction that includes taxable products and nontaxable products, and the purchase price or sales price of the taxable products is de minimis; 64744
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(4) A retail sale of exempt tangible personal property and 64747

taxable tangible personal property where the transaction includes 64748
food and food ingredients, drugs, durable medical equipment, 64749
mobility enhancing equipment, over-the-counter drugs, prosthetic 64750
devices, or medical supplies, and the vendor's or seller's 64751
purchase price or sales price of the taxable tangible personal 64752
property is fifty per cent or less of the total purchase price or 64753
sales price of the bundled tangible personal property. Vendors and 64754
sellers may not use a combination of the purchase price and sales 64755
price of the tangible personal property when making the fifty per 64756
cent determination for a transaction. 64757

(C) In the case of a bundled transaction that includes 64758
telecommunications service, ancillary service, internet access, or 64759
audio or video programming service: 64760

(1) If the price is attributable to products that are taxable 64761
and products that are nontaxable, the portion of the price 64762
attributable to the nontaxable products shall be subject to tax 64763
unless the provider, by reasonable and verifiable standards, can 64764
identify the portion from its books and records that are kept in 64765
the regular course of business for other purposes, including, but 64766
not limited to, non-tax purposes. 64767

(2) If the price is attributable to products that are subject 64768
to tax at different tax rates, the total price shall be treated as 64769
attributable to the products subject to tax at the highest tax 64770
rate unless the provider can identify by reasonable and verifiable 64771
standards the portion of the price attributable to the products 64772
subject to tax at the lower rate from its books and records that 64773
are kept in the regular course of business for other purposes, 64774
including non-tax purposes. 64775

(D) In all other cases of bundled transactions, the 64776
taxability of the transaction shall be determined by the true 64777
object of the consumer entering into the transaction. 64778

Sec. 5739.02. For the purpose of providing revenue with which 64779
to meet the needs of the state, for the use of the general revenue 64780
fund of the state, for the purpose of securing a thorough and 64781
efficient system of common schools throughout the state, for the 64782
purpose of affording revenues, in addition to those from general 64783
property taxes, permitted under constitutional limitations, and 64784
from other sources, for the support of local governmental 64785
functions, and for the purpose of reimbursing the state for the 64786
expense of administering this chapter, an excise tax is hereby 64787
levied on each retail sale made in this state. 64788

(A)(1) The tax shall be collected as provided in section 64789
5739.025 of the Revised Code, provided that on and after July 1, 64790
2003, and on or before June 30, 2005, the rate of tax shall be six 64791
per cent. On and after July 1, 2005, the rate of the tax shall be 64792
five and one-half per cent. The tax applies and is collectible 64793
when the sale is made, regardless of the time when the price is 64794
paid or delivered. 64795

(2) In the case of the lease or rental, with a fixed term of 64796
more than thirty days or an indefinite term with a minimum period 64797
of more than thirty days, of any motor vehicles designed by the 64798
manufacturer to carry a load of not more than one ton, watercraft, 64799
outboard motor, or aircraft, or of any tangible personal property, 64800
other than motor vehicles designed by the manufacturer to carry a 64801
load of more than one ton, to be used by the lessee or renter 64802
primarily for business purposes, the tax shall be collected by the 64803
vendor at the time the lease or rental is consummated and shall be 64804
calculated by the vendor on the basis of the total amount to be 64805
paid by the lessee or renter under the lease agreement. If the 64806
total amount of the consideration for the lease or rental includes 64807
amounts that are not calculated at the time the lease or rental is 64808
executed, the tax shall be calculated and collected by the vendor 64809

at the time such amounts are billed to the lessee or renter. In 64810
the case of an open-end lease or rental, the tax shall be 64811
calculated by the vendor on the basis of the total amount to be 64812
paid during the initial fixed term of the lease or rental, and for 64813
each subsequent renewal period as it comes due. As used in this 64814
division, "motor vehicle" has the same meaning as in section 64815
4501.01 of the Revised Code, and "watercraft" includes an outdrive 64816
unit attached to the watercraft. 64817

A lease with a renewal clause and a termination penalty or 64818
similar provision that applies if the renewal clause is not 64819
exercised is presumed to be a sham transaction. In such a case, 64820
the tax shall be calculated and paid on the basis of the entire 64821
length of the lease period, including any renewal periods, until 64822
the termination penalty or similar provision no longer applies. 64823
The taxpayer shall bear the burden, by a preponderance of the 64824
evidence, that the transaction or series of transactions is not a 64825
sham transaction. 64826

(3) Except as provided in division (A)(2) of this section, in 64827
the case of a sale, the price of which consists in whole or in 64828
part of the lease or rental of tangible personal property, the tax 64829
shall be measured by the installments of that lease or rental. 64830

(4) In the case of a sale of a physical fitness facility 64831
service or recreation and sports club service, the price of which 64832
consists in whole or in part of a membership for the receipt of 64833
the benefit of the service, the tax applicable to the sale shall 64834
be measured by the installments thereof. 64835

(B) The tax does not apply to the following: 64836

(1) Sales to the state or any of its political subdivisions, 64837
or to any other state or its political subdivisions if the laws of 64838
that state exempt from taxation sales made to this state and its 64839
political subdivisions; 64840

(2) Sales of food for human consumption off the premises	64841
where sold;	64842
(3) Sales of food sold to students only in a cafeteria,	64843
dormitory, fraternity, or sorority maintained in a private,	64844
public, or parochial school, college, or university;	64845
(4) Sales of newspapers and of magazine subscriptions and	64846
sales or transfers of magazines distributed as controlled	64847
circulation publications;	64848
(5) The furnishing, preparing, or serving of meals without	64849
charge by an employer to an employee provided the employer records	64850
the meals as part compensation for services performed or work	64851
done;	64852
(6) Sales of motor fuel upon receipt, use, distribution, or	64853
sale of which in this state a tax is imposed by the law of this	64854
state, but this exemption shall not apply to the sale of motor	64855
fuel on which a refund of the tax is allowable under division (A)	64856
of section 5735.14 of the Revised Code; and the tax commissioner	64857
may deduct the amount of tax levied by this section applicable to	64858
the price of motor fuel when granting a refund of motor fuel tax	64859
pursuant to division (A) of section 5735.14 of the Revised Code	64860
and shall cause the amount deducted to be paid into the general	64861
revenue fund of this state;	64862
(7) Sales of natural gas by a natural gas company, of water	64863
by a water-works company, or of steam by a heating company, if in	64864
each case the thing sold is delivered to consumers through pipes	64865
or conduits, and all sales of communications services by a	64866
telegraph company, all terms as defined in section 5727.01 of the	64867
Revised Code, and sales of electricity delivered through wires;	64868
(8) Casual sales by a person, or auctioneer employed directly	64869
by the person to conduct such sales, except as to such sales of	64870
motor vehicles, watercraft or outboard motors required to be	64871

titled under section 1548.06 of the Revised Code, watercraft 64872
documented with the United States coast guard, snowmobiles, and 64873
all-purpose vehicles as defined in section 4519.01 of the Revised 64874
Code; 64875

(9) Sales of services or tangible personal property, other 64876
than motor vehicles, mobile homes, and manufactured homes, by 64877
churches, organizations exempt from taxation under section 64878
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 64879
organizations operated exclusively for charitable purposes as 64880
defined in division (B)(12) of this section, provided that the 64881
number of days on which such tangible personal property or 64882
services, other than items never subject to the tax, are sold does 64883
not exceed six in any calendar year. If the number of days on 64884
which such sales are made exceeds six in any calendar year, the 64885
church or organization shall be considered to be engaged in 64886
business and all subsequent sales by it shall be subject to the 64887
tax. In counting the number of days, all sales by groups within a 64888
church or within an organization shall be considered to be sales 64889
of that church or organization, except that sales made by separate 64890
student clubs and other groups of students of a primary or 64891
secondary school, and sales made by a parent-teacher association, 64892
booster group, or similar organization that raises money to 64893
support or fund curricular or extracurricular activities of a 64894
primary or secondary school, shall not be considered to be sales 64895
of such school, and sales by each such club, group, association, 64896
or organization shall be counted separately for purposes of the 64897
six-day limitation. This division does not apply to sales by a 64898
noncommercial educational radio or television broadcasting 64899
station. 64900

(10) Sales not within the taxing power of this state under 64901
the Constitution of the United States; 64902

(11) Except for transactions that are sales under division 64903

(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code, the 64904
transportation of persons or property, unless the transportation 64905
is by a private investigation and security service; 64906

(12) Sales of tangible personal property or services to 64907
churches, to organizations exempt from taxation under section 64908
501(c)(3) of the Internal Revenue Code of 1986, and to any other 64909
nonprofit organizations operated exclusively for charitable 64910
purposes in this state, no part of the net income of which inures 64911
to the benefit of any private shareholder or individual, and no 64912
substantial part of the activities of which consists of carrying 64913
on propaganda or otherwise attempting to influence legislation; 64914
sales to offices administering one or more homes for the aged or 64915
one or more hospital facilities exempt under section 140.08 of the 64916
Revised Code; and sales to organizations described in division (D) 64917
of section 5709.12 of the Revised Code. 64918

"Charitable purposes" means the relief of poverty; the 64919
improvement of health through the alleviation of illness, disease, 64920
or injury; the operation of an organization exclusively for the 64921
provision of professional, laundry, printing, and purchasing 64922
services to hospitals or charitable institutions; the operation of 64923
a home for the aged, as defined in section 5701.13 of the Revised 64924
Code; the operation of a radio or television broadcasting station 64925
that is licensed by the federal communications commission as a 64926
noncommercial educational radio or television station; the 64927
operation of a nonprofit animal adoption service or a county 64928
humane society; the promotion of education by an institution of 64929
learning that maintains a faculty of qualified instructors, 64930
teaches regular continuous courses of study, and confers a 64931
recognized diploma upon completion of a specific curriculum; the 64932
operation of a parent-teacher association, booster group, or 64933
similar organization primarily engaged in the promotion and 64934
support of the curricular or extracurricular activities of a 64935

primary or secondary school; the operation of a community or area 64936
center in which presentations in music, dramatics, the arts, and 64937
related fields are made in order to foster public interest and 64938
education therein; the production of performances in music, 64939
dramatics, and the arts; or the promotion of education by an 64940
organization engaged in carrying on research in, or the 64941
dissemination of, scientific and technological knowledge and 64942
information primarily for the public. 64943

Nothing in this division shall be deemed to exempt sales to 64944
any organization for use in the operation or carrying on of a 64945
trade or business, or sales to a home for the aged for use in the 64946
operation of independent living facilities as defined in division 64947
(A) of section 5709.12 of the Revised Code. 64948

(13) Building and construction materials and services sold to 64949
construction contractors for incorporation into a structure or 64950
improvement to real property under a construction contract with 64951
this state or a political subdivision of this state, or with the 64952
United States government or any of its agencies; building and 64953
construction materials and services sold to construction 64954
contractors for incorporation into a structure or improvement to 64955
real property that are accepted for ownership by this state or any 64956
of its political subdivisions, or by the United States government 64957
or any of its agencies at the time of completion of the structures 64958
or improvements; building and construction materials sold to 64959
construction contractors for incorporation into a horticulture 64960
structure or livestock structure for a person engaged in the 64961
business of horticulture or producing livestock; building 64962
materials and services sold to a construction contractor for 64963
incorporation into a house of public worship or religious 64964
education, or a building used exclusively for charitable purposes 64965
under a construction contract with an organization whose purpose 64966
is as described in division (B)(12) of this section; building 64967

materials and services sold to a construction contractor for 64968
incorporation into a building under a construction contract with 64969
an organization exempt from taxation under section 501(c)(3) of 64970
the Internal Revenue Code of 1986 when the building is to be used 64971
exclusively for the organization's exempt purposes; building and 64972
construction materials sold for incorporation into the original 64973
construction of a sports facility under section 307.696 of the 64974
Revised Code; and building and construction materials and services 64975
sold to a construction contractor for incorporation into real 64976
property outside this state if such materials and services, when 64977
sold to a construction contractor in the state in which the real 64978
property is located for incorporation into real property in that 64979
state, would be exempt from a tax on sales levied by that state; 64980

(14) Sales of ships or vessels or rail rolling stock used or 64981
to be used principally in interstate or foreign commerce, and 64982
repairs, alterations, fuel, and lubricants for such ships or 64983
vessels or rail rolling stock; 64984

(15) Sales to persons primarily engaged in any of the 64985
activities mentioned in division (B)(43)(a) or (g) of this 64986
section, to persons engaged in making retail sales, or to persons 64987
who purchase for sale from a manufacturer tangible personal 64988
property that was produced by the manufacturer in accordance with 64989
specific designs provided by the purchaser, of packages, including 64990
material, labels, and parts for packages, and of machinery, 64991
equipment, and material for use primarily in packaging tangible 64992
personal property produced for sale, including any machinery, 64993
equipment, and supplies used to make labels or packages, to 64994
prepare packages or products for labeling, or to label packages or 64995
products, by or on the order of the person doing the packaging, or 64996
sold at retail. "Packages" includes bags, baskets, cartons, 64997
crates, boxes, cans, bottles, bindings, wrappings, and other 64998
similar devices and containers, but does not include motor 64999

vehicles or bulk tanks, trailers, or similar devices attached to 65000
motor vehicles. "Packaging" means placing in a package. Division 65001
(B)~~(14)~~(15) of this section does not apply to persons engaged in 65002
highway transportation for hire. 65003

(16) Sales of food to persons using food stamp benefits to 65004
purchase the food. As used in this division, "food" has the same 65005
meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 65006
2012, as amended, and federal regulations adopted pursuant to that 65007
act. 65008

(17) Sales to persons engaged in farming, agriculture, 65009
horticulture, or floriculture, of tangible personal property for 65010
use or consumption directly in the production by farming, 65011
agriculture, horticulture, or floriculture of other tangible 65012
personal property for use or consumption directly in the 65013
production of tangible personal property for sale by farming, 65014
agriculture, horticulture, or floriculture; or material and parts 65015
for incorporation into any such tangible personal property for use 65016
or consumption in production; and of tangible personal property 65017
for such use or consumption in the conditioning or holding of 65018
products produced by and for such use, consumption, or sale by 65019
persons engaged in farming, agriculture, horticulture, or 65020
floriculture, except where such property is incorporated into real 65021
property; 65022

(18) Sales of drugs for a human being, that may be dispensed 65023
only pursuant to a prescription; insulin as recognized in the 65024
official United States pharmacopoeia; urine and blood testing 65025
materials when used by diabetics or persons with hypoglycemia to 65026
test for glucose or acetone; hypodermic syringes and needles when 65027
used by diabetics for insulin injections; epoetin alfa when 65028
purchased for use in the treatment of persons with medical 65029
disease; hospital beds when purchased ~~for use by persons with~~ 65030
~~medical problems for medical purposes~~ by hospitals, nursing homes, 65031

or other medical facilities; and medical oxygen and medical 65032
oxygen-dispensing equipment when purchased ~~for use by persons with~~ 65033
~~medical problems for medical purposes by hospitals, nursing homes,~~ 65034
or other medical facilities; 65035

(19) Sales of prosthetic devices, durable medical equipment 65036
for home use, or mobility enhancing equipment, when made pursuant 65037
to a prescription and when such devices or equipment are for use 65038
by a human being. 65039

(20) Sales of emergency and fire protection vehicles and 65040
equipment to nonprofit organizations for use solely in providing 65041
fire protection and emergency services, including trauma care and 65042
emergency medical services, for political subdivisions of the 65043
state; 65044

(21) Sales of tangible personal property manufactured in this 65045
state, if sold by the manufacturer in this state to a retailer for 65046
use in the retail business of the retailer outside of this state 65047
and if possession is taken from the manufacturer by the purchaser 65048
within this state for the sole purpose of immediately removing the 65049
same from this state in a vehicle owned by the purchaser; 65050

(22) Sales of services provided by the state or any of its 65051
political subdivisions, agencies, instrumentalities, institutions, 65052
or authorities, or by governmental entities of the state or any of 65053
its political subdivisions, agencies, instrumentalities, 65054
institutions, or authorities; 65055

(23) Sales of motor vehicles to nonresidents of this state 65056
upon the presentation of an affidavit executed in this state by 65057
the nonresident purchaser affirming that the purchaser is a 65058
nonresident of this state, that possession of the motor vehicle is 65059
taken in this state for the sole purpose of immediately removing 65060
it from this state, that the motor vehicle will be permanently 65061
titled and registered in another state, and that the motor vehicle 65062

will not be used in this state; 65063

(24) Sales to persons engaged in the preparation of eggs for 65064
sale of tangible personal property used or consumed directly in 65065
such preparation, including such tangible personal property used 65066
for cleaning, sanitizing, preserving, grading, sorting, and 65067
classifying by size; packages, including material and parts for 65068
packages, and machinery, equipment, and material for use in 65069
packaging eggs for sale; and handling and transportation equipment 65070
and parts therefor, except motor vehicles licensed to operate on 65071
public highways, used in intraplant or interplant transfers or 65072
shipment of eggs in the process of preparation for sale, when the 65073
plant or plants within or between which such transfers or 65074
shipments occur are operated by the same person. "Packages" 65075
includes containers, cases, baskets, flats, fillers, filler flats, 65076
cartons, closure materials, labels, and labeling materials, and 65077
"packaging" means placing therein. 65078

(25)(a) Sales of water to a consumer for residential use, 65079
except the sale of bottled water, distilled water, mineral water, 65080
carbonated water, or ice; 65081

(b) Sales of water by a nonprofit corporation engaged 65082
exclusively in the treatment, distribution, and sale of water to 65083
consumers, if such water is delivered to consumers through pipes 65084
or tubing. 65085

(26) Fees charged for inspection or reinspection of motor 65086
vehicles under section 3704.14 of the Revised Code; 65087

(27) Sales to persons licensed to conduct a food service 65088
operation pursuant to section 3717.43 of the Revised Code, of 65089
tangible personal property primarily used directly for the 65090
following: 65091

(a) To prepare food for human consumption for sale; 65092

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	65093 65094 65095 65096
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	65097 65098
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	65099 65100
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	65101 65102 65103 65104
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	65105 65106 65107
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	65108 65109 65110
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	65111 65112 65113 65114 65115 65116
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	65117 65118 65119 65120 65121
(34) Sales to a telecommunications service vendor, mobile	65122

telecommunications service vendor, or satellite broadcasting 65123
service vendor of tangible personal property and services used 65124
directly and primarily in transmitting, receiving, switching, or 65125
recording any interactive, one- or two-way electromagnetic 65126
communications, including voice, image, data, and information, 65127
through the use of any medium, including, but not limited to, 65128
poles, wires, cables, switching equipment, computers, and record 65129
storage devices and media, and component parts for the tangible 65130
personal property. The exemption provided in this division shall 65131
be in lieu of all other exemptions under division (B)(43)(a) of 65132
this section to which the vendor may otherwise be entitled, based 65133
upon the use of the thing purchased in providing the 65134
telecommunications, mobile telecommunications, or satellite 65135
broadcasting service. 65136

(35) Sales of investment metal bullion and investment coins. 65137
"Investment metal bullion" means any elementary precious metal 65138
that has been put through a process of smelting or refining, 65139
including, but not limited to, gold, silver, platinum, and 65140
palladium, and which is in such state or condition that its value 65141
depends upon its content and not upon its form. "Investment metal 65142
bullion" does not include fabricated precious metal that has been 65143
processed or manufactured for one or more specific and customary 65144
industrial, professional, or artistic uses. "Investment coins" 65145
means numismatic coins or other forms of money and legal tender 65146
manufactured of gold, silver, platinum, palladium, or other metal 65147
under the laws of the United States or any foreign nation with a 65148
fair market value greater than any statutory or nominal value of 65149
such coins. 65150

(36)(a) Sales where the purpose of the consumer is to use or 65151
consume the things transferred in making retail sales and 65152
consisting of newspaper inserts, catalogues, coupons, flyers, gift 65153
certificates, or other advertising material that prices and 65154

describes tangible personal property offered for retail sale. 65155

(b) Sales to direct marketing vendors of preliminary 65156
materials such as photographs, artwork, and typesetting that will 65157
be used in printing advertising material; of printed matter that 65158
offers free merchandise or chances to win sweepstake prizes and 65159
that is mailed to potential customers with advertising material 65160
described in division (B)(36)(a) of this section; and of equipment 65161
such as telephones, computers, facsimile machines, and similar 65162
tangible personal property primarily used to accept orders for 65163
direct marketing retail sales. 65164

(c) Sales of automatic food vending machines that preserve 65165
food with a shelf life of forty-five days or less by refrigeration 65166
and dispense it to the consumer. 65167

For purposes of division (B)(36) of this section, "direct 65168
marketing" means the method of selling where consumers order 65169
tangible personal property by United States mail, delivery 65170
service, or telecommunication and the vendor delivers or ships the 65171
tangible personal property sold to the consumer from a warehouse, 65172
catalogue distribution center, or similar fulfillment facility by 65173
means of the United States mail, delivery service, or common 65174
carrier. 65175

(37) Sales to a person engaged in the business of 65176
horticulture or producing livestock of materials to be 65177
incorporated into a horticulture structure or livestock structure; 65178

(38) Sales of personal computers, computer monitors, computer 65179
keyboards, modems, and other peripheral computer equipment to an 65180
individual who is licensed or certified to teach in an elementary 65181
or a secondary school in this state for use by that individual in 65182
preparation for teaching elementary or secondary school students; 65183

(39) Sales to a professional racing team of any of the 65184
following: 65185

(a) Motor racing vehicles;	65186
(b) Repair services for motor racing vehicles;	65187
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	65188 65189 65190 65191 65192 65193 65194 65195
(40) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	65196 65197 65198
(41) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(43)(a) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.	65199 65200 65201 65202 65203 65204 65205 65206 65207 65208 65209 65210 65211 65212 65213 65214 65215
(42) Sales to a person providing services under division	65216

(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code of tangible 65217
personal property and services used directly and primarily in 65218
providing taxable services under that section. 65219

(43) Sales where the purpose of the purchaser is to do any of 65220
the following: 65221

(a) To incorporate the thing transferred as a material or a 65222
part into tangible personal property to be produced for sale by 65223
manufacturing, assembling, processing, or refining; or to use or 65224
consume the thing transferred directly in producing tangible 65225
personal property for sale by mining, including, without 65226
limitation, the extraction from the earth of all substances that 65227
are classed geologically as minerals, production of crude oil and 65228
natural gas, farming, agriculture, horticulture, or floriculture, 65229
or directly in the rendition of a public utility service, except 65230
that the sales tax levied by this section shall be collected upon 65231
all meals, drinks, and food for human consumption sold when 65232
transporting persons. Persons engaged in rendering farming, 65233
agricultural, horticultural, or floricultural services, and 65234
services in the exploration for, and production of, crude oil and 65235
natural gas, for others are deemed engaged directly in farming, 65236
agriculture, horticulture, and floriculture, or exploration for, 65237
and production of, crude oil and natural gas. This paragraph does 65238
not exempt from "retail sale" or "sales at retail" the sale of 65239
tangible personal property that is to be incorporated into a 65240
structure or improvement to real property. 65241

(b) To hold the thing transferred as security for the 65242
performance of an obligation of the vendor; 65243

(c) To resell, hold, use, or consume the thing transferred as 65244
evidence of a contract of insurance; 65245

(d) To use or consume the thing directly in commercial 65246
fishing; 65247

(e) To incorporate the thing transferred as a material or a 65248
part into, or to use or consume the thing transferred directly in 65249
the production of, magazines distributed as controlled circulation 65250
publications; 65251

(f) To use or consume the thing transferred in the production 65252
and preparation in suitable condition for market and sale of 65253
printed, imprinted, overprinted, lithographic, multilithic, 65254
blueprinted, photostatic, or other productions or reproductions of 65255
written or graphic matter; 65256

(g) To use the thing transferred, as described in section 65257
5739.011 of the Revised Code, primarily in a manufacturing 65258
operation to produce tangible personal property for sale; 65259

(h) To use the benefit of a warranty, maintenance or service 65260
contract, or similar agreement, as described in division (B)(7) of 65261
section 5739.01 of the Revised Code, to repair or maintain 65262
tangible personal property, if all of the property that is the 65263
subject of the warranty, contract, or agreement would not be 65264
subject to the tax imposed by this section; 65265

(i) To use the thing transferred as qualified research and 65266
development equipment; 65267

(j) To use or consume the thing transferred primarily in 65268
storing, transporting, mailing, or otherwise handling purchased 65269
sales inventory in a warehouse, distribution center, or similar 65270
facility when the inventory is primarily distributed outside this 65271
state to retail stores of the person who owns or controls the 65272
warehouse, distribution center, or similar facility, to retail 65273
stores of an affiliated group of which that person is a member, or 65274
by means of direct marketing. This division does not apply to 65275
motor vehicles registered for operation on the public highways. As 65276
used in this division, "affiliated group" has the same meaning as 65277
in division (B)(3)(e) of section 5739.01 of the Revised Code and 65278

"direct marketing" has the same meaning as in division (B)(36) of
this section. 65279
65280

(k) To use or consume the thing transferred to fulfill a 65281
contractual obligation incurred by a warrantor pursuant to a 65282
warranty provided as a part of the price of the tangible personal 65283
property sold or by a vendor of a warranty, maintenance or service 65284
contract, or similar agreement the provision of which is defined 65285
as a sale under division (B)(7) of section 5739.01 of the Revised 65286
Code; 65287

(l) To use or consume the thing transferred in the production 65288
of a newspaper for distribution to the public; 65289

(m) To use tangible personal property to perform a service 65290
listed in division (B)(3) of section 5739.01 of the Revised Code, 65291
if the property is or is to be permanently transferred to the 65292
consumer of the service as an integral part of the performance of 65293
the service. 65294

As used in division (B)(43) of this section, "thing" includes 65295
all transactions included in divisions (B)(3)(a), (b), and (e) of 65296
section 5739.01 of the Revised Code. 65297

(44) Sales conducted through a coin operated device that 65298
activates vacuum equipment or equipment that dispenses water, 65299
whether or not in combination with soap or other cleaning agents 65300
or wax, to the consumer for the consumer's use on the premises in 65301
washing, cleaning, or waxing a motor vehicle, provided no other 65302
personal property or personal service is provided as part of the 65303
transaction. 65304

(45) Sales of replacement and modification parts for engines, 65305
airframes, instruments, and interiors in, and paint for, aircraft 65306
used primarily in a fractional aircraft ownership program, and 65307
sales of services for the repair, modification, and maintenance of 65308
such aircraft, and machinery, equipment, and supplies primarily 65309

used to provide those services. 65310

(46) Sales of telecommunications service that is used 65311
directly and primarily to perform the functions of a call center. 65312
As used in this division, "call center" means any physical 65313
location where telephone calls are placed or received in high 65314
volume for the purpose of making sales, marketing, customer 65315
service, technical support, or other specialized business 65316
activity, and that employs at least fifty individuals that engage 65317
in call center activities on a full-time basis, or sufficient 65318
individuals to fill fifty full-time equivalent positions. 65319

(47) Sales by a telecommunications service vendor of 900 65320
service to a subscriber. This division does not apply to 65321
information services, as defined in division (FF) of section 65322
5739.01 of the Revised Code. 65323

(48) Sales of value-added non-voice data service. This 65324
division does not apply to any similar service that is not 65325
otherwise a telecommunications service. 65326

(C) For the purpose of the proper administration of this 65327
chapter, and to prevent the evasion of the tax, it is presumed 65328
that all sales made in this state are subject to the tax until the 65329
contrary is established. 65330

~~(D)~~(E)(D) The levy of this tax on retail sales of recreation 65331
and sports club service shall not prevent a municipal corporation 65332
from levying any tax on recreation and sports club dues or on any 65333
income generated by recreation and sports club dues. 65334

(E) The tax collected by the vendor from the consumer under 65335
this chapter is not part of the price, but is a tax collection for 65336
the benefit of the state, and of counties levying an additional 65337
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 65338
Code and of transit authorities levying an additional sales tax 65339
pursuant to section 5739.023 of the Revised Code. Except for the 65340

discount authorized under section 5739.12 of the Revised Code and 65341
the effects of any rounding pursuant to section 5703.055 of the 65342
Revised Code, no person other than the state or such a county or 65343
transit authority shall derive any benefit from the collection or 65344
payment of the tax levied by this section or section 5739.021, 65345
5739.023, or 5739.026 of the Revised Code. 65346

Sec. 5739.021. (A) For the purpose of providing additional 65347
general revenues for the county or supporting criminal and 65348
administrative justice services in the county, or both, and to pay 65349
the expenses of administering such levy, any county may levy a tax 65350
at the rate of not more than one per cent at any multiple of 65351
one-fourth of one per cent upon every retail sale made in the 65352
county, except sales of watercraft and outboard motors required to 65353
be titled pursuant to Chapter 1548. of the Revised Code and sales 65354
of motor vehicles, and may increase the rate of an existing tax to 65355
not more than one per cent at any multiple of one-fourth of one 65356
per cent. 65357

The tax shall be levied and the rate increased pursuant to a 65358
resolution of the board of county commissioners. The resolution 65359
shall state the purpose for which the tax is to be levied and the 65360
number of years for which the tax is to be levied, or that it is 65361
for a continuing period of time. If the tax is to be levied for 65362
the purpose of providing additional general revenues and for the 65363
purpose of supporting criminal and administrative justice 65364
services, the resolution shall state the rate or amount of the tax 65365
to be apportioned to each such purpose. The rate or amount may be 65366
different for each year the tax is to be levied, but the rates or 65367
amounts actually apportioned each year shall not be different from 65368
that stated in the resolution for that year. Unless the resolution 65369
is adopted as an emergency measure, or is to be submitted to the 65370
electors of the county under division (B)(1) of this section, the 65371

resolution shall be adopted at least one hundred twenty days prior 65372
to the date on which the tax or the increased rate of tax is to go 65373
into effect. If the resolution is adopted as an emergency measure 65374
necessary for the immediate preservation of the public peace, 65375
health, or safety, it must receive an affirmative vote of all of 65376
the members of the board of county commissioners and shall state 65377
the reasons for such necessity. The board shall deliver a 65378
certified copy of the resolution to the tax commissioner, not 65379
later than the sixty-fifth day prior to the date on which the tax 65380
is to become effective, which shall be the first day of the 65381
calendar quarter. 65382

Prior to the adoption of any resolution under this section, 65383
the board of county commissioners shall conduct two public 65384
hearings on the resolution, the second hearing to be not less than 65385
three nor more than ten days after the first. Notice of the date, 65386
time, and place of the hearings shall be given by publication in a 65387
newspaper of general circulation in the county once a week on the 65388
same day of the week for two consecutive weeks, the second 65389
publication being not less than ten nor more than thirty days 65390
prior to the first hearing. 65391

Except as provided in division (B)(3) of this section, the 65392
resolution shall be subject to a referendum as provided in 65393
sections 305.31 to 305.41 of the Revised Code. 65394

If a petition for a referendum is filed, the county auditor 65395
with whom the petition was filed shall, within five days, notify 65396
the board of county commissioners and the tax commissioner of the 65397
filing of the petition by certified mail. If the board of 65398
elections with which the petition was filed declares the petition 65399
invalid, the board of elections, within five days, shall notify 65400
the board of county commissioners and the tax commissioner of that 65401
declaration by certified mail. If the petition is declared to be 65402
invalid, the effective date of the tax or increased rate of tax 65403

levied by this section shall be the first day of a calendar
quarter following the expiration of sixty-five days from the date
the commissioner receives notice from the board of elections that
the petition is invalid.

(B)(1) A resolution that is not adopted as an emergency
measure may direct the board of elections to submit the question
of levying the tax or increasing the rate of tax to the electors
of the county at a special election held on the date specified by
the board of county commissioners in the resolution, provided that
the election occurs not less than seventy-five days after a
certified copy of such resolution is transmitted to the board of
elections and the election is not held in February or August of
any year. Upon transmission of the resolution to the board of
elections, the board of county commissioners shall notify the tax
commissioner in writing of the levy question to be submitted to
the electors. No resolution adopted under this division shall go
into effect unless approved by a majority of those voting upon it,
and, except as provided in division (B)(3) of this section, shall
become effective on the first day of a calendar quarter following
the expiration of sixty-five days from the date the tax
commissioner receives notice from the board of elections of the
affirmative vote.

(2) A resolution that is adopted as an emergency measure
shall go into effect as provided in ~~division~~ divisions (A) and (H)
of this section, but may direct the board of elections to submit
the question of repealing the tax or increase in the rate of the
tax to the electors of the county at the next general election in
the county occurring not less than seventy-five days after a
certified copy of the resolution is transmitted to the board of
elections. Upon transmission of the resolution to the board of
elections, the board of county commissioners shall notify the tax
commissioner in writing of the levy question to be submitted to

the electors. The ballot question shall be the same as that 65436
prescribed in section 5739.022 of the Revised Code. The board of 65437
elections shall notify the board of county commissioners and the 65438
tax commissioner of the result of the election immediately after 65439
the result has been declared. If a majority of the qualified 65440
electors voting on the question of repealing the tax or increase 65441
in the rate of the tax vote for repeal of the tax or repeal of the 65442
increase, the board of county commissioners, on the first day of a 65443
calendar quarter following the expiration of sixty-five days after 65444
the date the board and tax commissioner receive notice of the 65445
result of the election, shall, in the case of a repeal of the tax, 65446
cease to levy the tax, or, in the case of a repeal of an increase 65447
in the rate of the tax, cease to levy the increased rate and levy 65448
the tax at the rate at which it was imposed immediately prior to 65449
the increase in rate. 65450

(3) If a vendor that is registered with the central 65451
electronic registration system provided for in section 5740.05 of 65452
the Revised Code makes a sale in this state by printed catalog and 65453
the consumer computed the tax on the sale based on local rates 65454
published in the catalog, any tax levied or repealed or rate 65455
changed under this section shall not apply to such a sale until 65456
the first day of a calendar quarter following the expiration of 65457
one hundred twenty days from the date of notice by the tax 65458
commissioner pursuant to division (H) of this section. 65459

(C) If a resolution is rejected at a referendum or if a 65460
resolution adopted after January 1, 1982, as an emergency measure 65461
is repealed by the electors pursuant to division (B)(2) of this 65462
section or section 5739.022 of the Revised Code, then for one year 65463
after the date of the election at which the resolution was 65464
rejected or repealed the board of county commissioners may not 65465
adopt any resolution authorized by this section as an emergency 65466
measure. 65467

(D) The board of county commissioners, at any time while a tax levied under this section is in effect, may by resolution reduce the rate at which the tax is levied to a lower rate authorized by this section. Any reduction in the rate at which the tax is levied shall be made effective on the first day of a calendar quarter next following the sixty-fifth day after a certified copy of the resolution is delivered to the tax commissioner.

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and exact reproduction of the original resolution.

(G) If a board of commissioners intends to adopt a resolution 65499
to levy a tax in whole or in part for the purpose of criminal and 65500
administrative justice services, the board shall prepare and make 65501
available at the first public hearing at which the resolution is 65502
considered a statement containing the following information: 65503

(1) For each of the two preceding fiscal years, the amount of 65504
expenditures made by the county from the county general fund for 65505
the purpose of criminal and administrative justice services; 65506

(2) For the fiscal year in which the resolution is adopted, 65507
the board's estimate of the amount of expenditures to be made by 65508
the county from the county general fund for the purpose of 65509
criminal and administrative justice services; 65510

(3) For each of the two fiscal years after the fiscal year in 65511
which the resolution is adopted, the board's preliminary plan for 65512
expenditures to be made from the county general fund for the 65513
purpose of criminal and administrative justice services, both 65514
under the assumption that the tax will be imposed for that purpose 65515
and under the assumption that the tax would not be imposed for 65516
that purpose, and for expenditures to be made from the special 65517
fund created under division (E) of this section under the 65518
assumption that the tax will be imposed for that purpose. 65519

The board shall prepare the statement and the preliminary 65520
plan using the best information available to the board at the time 65521
the statement is prepared. Neither the statement nor the 65522
preliminary plan shall be used as a basis to challenge the 65523
validity of the tax in any court of competent jurisdiction, nor 65524
shall the statement or preliminary plan limit the authority of the 65525
board to appropriate, pursuant to section 5705.38 of the Revised 65526
Code, an amount different from that specified in the preliminary 65527
plan. 65528

(H) Upon receipt from a board of county commissioners of a 65529

certified copy of a resolution required by division (A) or (D) of 65530
this section, or from the board of elections of a notice of the 65531
results of an election required by division (A) or (B)(1) or (2) 65532
of this section, the tax commissioner shall provide notice of a 65533
tax rate change in a manner that is reasonably accessible to all 65534
affected vendors. The commissioner shall provide this notice at 65535
least sixty days prior to the effective date of the rate change. 65536
The commissioner, by rule, may establish the method by which 65537
notice will be provided. 65538

(I) As used in this section, "criminal and administrative 65539
justice services" means the exercise by the county sheriff of all 65540
powers and duties vested in that office by law; the exercise by 65541
the county prosecuting attorney of all powers and duties vested in 65542
that office by law; the exercise by any court in the county of all 65543
powers and duties vested in that court; the exercise by the clerk 65544
of the court of common pleas, any clerk of a municipal court 65545
having jurisdiction throughout the county, or the clerk of any 65546
county court of all powers and duties vested in the clerk by law 65547
except, in the case of the clerk of the court of common pleas, the 65548
titling of motor vehicles or watercraft pursuant to Chapter 1548. 65549
or 4505. of the Revised Code; the exercise by the county coroner 65550
of all powers and duties vested in that office by law; making 65551
payments to any other public agency or a private, nonprofit 65552
agency, the purposes of which in the county include the diversion, 65553
adjudication, detention, or rehabilitation of criminals or 65554
juvenile offenders; the operation and maintenance of any detention 65555
facility, as defined in section 2921.01 of the Revised Code; and 65556
the construction, acquisition, equipping, or repair of such a 65557
detention facility, including the payment of any debt charges 65558
incurred in the issuance of securities pursuant to Chapter 133. of 65559
the Revised Code for the purpose of constructing, acquiring, 65560
equipping, or repairing such a facility. 65561

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 is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.16	1¢
.17	.33	2¢
.34	.50	3¢
.51	.66	4¢
.67	.83	5¢
.84	1.00	6¢

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
.16	.20	1¢
	<u>.18</u>	

.21	.40	2¢	65592
<u>.19</u>	<u>.36</u>		
.41	.60	3¢	65593
<u>.37</u>	<u>.54</u>		
.61	.80	4¢	65594
<u>.55</u>	<u>.72</u>		
.81	<u>1.00</u>	5¢	65595
<u>.73</u>	<u>.90</u>		
<u>.91</u>	<u>1.09</u>	6¢	65596
<u>1.10</u>	<u>1.27</u>	7¢	65597
<u>1.28</u>	<u>1.46</u>	8¢	65598
<u>1.47</u>	<u>1.64</u>	9¢	65599
<u>1.65</u>	<u>1.82</u>	10¢	65600
<u>1.83</u>	<u>2.00</u>	11¢	65601

If the price exceeds ~~one dollar two dollars~~, the tax is ~~five~~ eleven cents on each ~~one dollar two dollars~~. If the price exceeds ~~one dollar two dollars~~ or a multiple thereof by not more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar two dollars~~ plus one cent. If the price exceeds ~~one dollar two dollars~~ or a multiple thereof by more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar two dollars~~ plus the amount of tax for prices ~~twenty one~~ nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(B) On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:
 If the price The amount of

is at least	But not more than	the tax is	
\$.01	\$.15	No tax	65620
.16	.16	1¢	65621
.17	.32	2¢	65622
.33	.48	3¢	65623
.49	.64	4¢	65624
.65	.80	5¢	65625
.81	.96	6¢	65626
.97	1.12	7¢	65627
1.13	1.28	8¢	65628
1.29	1.44	9¢	65629
1.45	1.60	10¢	65630
1.61	1.76	11¢	65631
1.77	1.92	12¢	65632
1.93	2.08	13¢	65633
2.09	2.24	14¢	65634
2.25	2.40	15¢	65635
2.41	2.56	16¢	65636
2.57	2.72	17¢	65637
2.73	2.88	18¢	65638
2.89	3.04	19¢	65639
3.05	3.20	20¢	65640
3.21	3.36	21¢	65641
3.37	3.52	22¢	65642
3.53	3.68	23¢	65643
3.69	3.84	24¢	65644
3.85	4.00	25¢	65645

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 65653
through three dollars and ninety-nine cents in accordance with the 65654
schedule above. 65655

(2) When the combined rate of state and local tax is six and 65656
one-half per cent: 65657

If the price	The amount of	65658
is at least	the tax is	65659
But not more than		
\$.01	No tax	65660
.16	2¢	65661
.31	3¢	65662
.47	4¢	65663
.62	5¢	65664
.77	6¢	65665
.93	7¢	65666
1.08	8¢	65667
1.24	9¢	65668
1.39	10¢	65669
1.54	11¢	65670
1.70	12¢	65671
1.85	13¢	65672

If the price exceeds two dollars, the tax is thirteen cents 65673
on each two dollars. If the price exceeds two dollars or a 65674
multiple thereof by not more than fifteen cents, the amount of tax 65675
is thirteen cents for each two dollars plus one cent. If the price 65676
exceeds two dollars or a multiple thereof by more than fifteen 65677
cents, the amount of tax is thirteen cents for each two dollars 65678
plus the amount of tax for prices sixteen cents through one dollar 65679
and ninety-nine cents in accordance with the schedule above. 65680

(3) When the combined rate of state and local tax is six and 65681
three-fourths per cent: 65682

If the price	The amount of	65683
is at least	the tax is	65684
But not more than		

\$.01	\$.15	No tax	65685
.16	.29	2¢	65686
.30	.44	3¢	65687
.45	.59	4¢	65688
.60	.74	5¢	65689
.75	.88	6¢	65690
.89	1.03	7¢	65691
1.04	1.18	8¢	65692
1.19	1.33	9¢	65693
1.34	1.48	10¢	65694
1.49	1.62	11¢	65695
1.63	1.77	12¢	65696
1.78	1.92	13¢	65697
1.93	2.07	14¢	65698
2.08	2.22	15¢	65699
2.23	2.37	16¢	65700
2.38	2.51	17¢	65701
2.52	2.66	18¢	65702
2.67	2.81	19¢	65703
2.82	2.96	20¢	65704
2.97	3.11	21¢	65705
3.12	3.25	22¢	65706
3.26	3.40	23¢	65707
3.41	3.55	24¢	65708
3.56	3.70	25¢	65709
3.71	3.85	26¢	65710
3.86	4.00	27¢	65711

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

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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.

(4) When the combined rate of state and local tax is seven per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.28	2¢
.29	.42	3¢
.43	.57	4¢
.58	.71	5¢
.72	.85	6¢
.86	1.00	7¢

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of state and local tax is seven 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
.16	.27	2¢
.28	.41	3¢

.42	.55	4¢	65750
.56	.68	5¢	65751
.69	.82	6¢	65752
.83	.96	7¢	65753
.97	1.10	8¢	65754
1.11	1.24	9¢	65755
1.25	1.37	10¢	65756
1.38	1.51	11¢	65757
1.52	1.65	12¢	65758
1.66	1.79	13¢	65759
1.80	1.93	14¢	65760
1.94	2.06	15¢	65761
2.07	2.20	16¢	65762
2.21	2.34	17¢	65763
2.35	2.48	18¢	65764
2.49	2.62	19¢	65765
2.63	2.75	20¢	65766
2.76	2.89	21¢	65767
2.90	3.03	22¢	65768
3.04	3.17	23¢	65769
3.18	3.31	24¢	65770
3.32	3.44	25¢	65771
3.45	3.58	26¢	65772
3.59	3.72	27¢	65773
3.73	3.86	28¢	65774
3.87	4.00	29¢	65775

If the price exceeds four dollars, the tax is twenty-nine 65776
cents on each four dollars. If the price exceeds four dollars or a 65777
multiple thereof by not more than thirteen cents, the amount of 65778
tax is twenty-nine cents for each four dollars plus one cent. If 65779
the price exceeds four dollars or a multiple thereof by more than 65780
thirteen cents but by not more than twenty-seven cents, the amount 65781
of tax is twenty-nine cents for each four dollars plus two cents. 65782

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. 65783
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(6) When the combined rate of state and local tax is seven and one-half per cent: 65788
65789

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	65792
.16	.26	2¢	65793
.27	.40	3¢	65794
.41	.53	4¢	65795
.54	.65	5¢	65796
.66	.80	6¢	65797
.81	.93	7¢	65798
.94	1.06	8¢	65799
1.07	1.20	9¢	65800
1.21	1.33	10¢	65801
1.34	1.46	11¢	65802
1.47	1.60	12¢	65803
1.61	1.73	13¢	65804
1.74	1.86	14¢	65805
1.87	2.00	15¢	65806

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. 65807
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(7) When the combined rate of state and local tax is seven			65815
and three-fourths per cent:			65816
If the price		The amount of	65817
is at least	But not more than	the tax is	65818
\$.01	\$.15	No tax	65819
.16	.25	2¢	65820
.26	.38	3¢	65821
.39	.51	4¢	65822
.52	.64	5¢	65823
.65	.77	6¢	65824
.78	.90	7¢	65825
.91	1.03	8¢	65826
1.04	1.16	9¢	65827
1.17	1.29	10¢	65828
1.30	1.41	11¢	65829
1.42	1.54	12¢	65830
1.55	1.67	13¢	65831
1.68	1.80	14¢	65832
1.81	1.93	15¢	65833
1.94	2.06	16¢	65834
2.07	2.19	17¢	65835
2.20	2.32	18¢	65836
2.33	2.45	19¢	65837
2.46	2.58	20¢	65838
2.59	2.70	21¢	65839
2.71	2.83	22¢	65840
2.84	2.96	23¢	65841
2.97	3.09	24¢	65842
3.10	3.22	25¢	65843
3.23	3.35	26¢	65844
3.36	3.48	27¢	65845
3.49	3.61	28¢	65846
3.62	3.74	29¢	65847

3.75	3.87	30¢	65848
3.88	4.00	31¢	65849

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but by not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of state and local tax is eight per cent:

If the price is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	65866
.16	.25	2¢	65867
.26	.37	3¢	65868
.38	.50	4¢	65869
.51	.62	5¢	65870
.63	.75	6¢	65871
.76	.87	7¢	65872
.88	1.00	8¢	65873

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.

(9) When the combined rate of state and local tax is eight
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	65889
.16	.24	2¢	65890
.25	.36	3¢	65891
.37	.48	4¢	65892
.49	.60	5¢	65893
.61	.72	6¢	65894
.73	.84	7¢	65895
.85	.96	8¢	65896
.97	1.09	9¢	65897
1.10	1.21	10¢	65898
1.22	1.33	11¢	65899
1.34	1.45	12¢	65900
1.46	1.57	13¢	65901
1.58	1.69	14¢	65902
1.70	1.81	15¢	65903
1.82	1.93	16¢	65904
1.94	2.06	17¢	65905
2.07	2.18	18¢	65906
2.19	2.30	19¢	65907
2.31	2.42	20¢	65908
2.43	2.54	21¢	65909
2.55	2.66	22¢	65910
2.67	2.78	23¢	65911

2.79	2.90	24¢	65912
2.91	3.03	25¢	65913
3.04	3.15	26¢	65914
3.16	3.27	27¢	65915
3.28	3.39	28¢	65916
3.40	3.51	29¢	65917
3.52	3.63	30¢	65918
3.64	3.75	31¢	65919
3.76	3.87	32¢	65920
3.88	4.00	33¢	65921

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

If the price		The amount of	65936
is at least	But not more than	the tax is	65937
\$.01	\$.15	No tax	65938
.16	.23	2¢	65939
.24	.35	3¢	65940
.36	.47	4¢	65941
.48	.58	5¢	65942
.59	.70	6¢	65943

.71	.82	7¢	65944
.83	.94	8¢	65945
.95	1.05	9¢	65946
1.06	1.17	10¢	65947
1.18	1.29	11¢	65948
1.30	1.41	12¢	65949
1.42	1.52	13¢	65950
1.53	1.64	14¢	65951
1.65	1.76	15¢	65952
1.77	1.88	16¢	65953
1.89	2.00	17¢	65954

If the price exceeds two dollars, the tax is seventeen cents 65955
on each two dollars. If the price exceeds two dollars or a 65956
multiple thereof by not more than eleven cents, the amount of tax 65957
is seventeen cents for each two dollars plus one cent. If the 65958
price exceeds two dollars or a multiple thereof by more than 65959
eleven cents but by not more than twenty-three cents, the amount 65960
of tax is seventeen cents for each two dollars plus two cents. If 65961
the price exceeds two dollars or a multiple thereof by more than 65962
twenty-three cents, the amount of tax is seventeen cents for each 65963
two dollars plus the amount of tax for prices twenty-four cents 65964
through one dollar and ninety-nine cents in accordance with the 65965
schedule above. 65966

(11) When the combined rate of state and local tax is eight 65967
and three-fourths per cent: 65968

If the price		The amount of	65969
is at least	But not more than	the tax is	65970
\$.01	\$.15	No tax	65971
.16	.22	2¢	65972
.23	.34	3¢	65973
.35	.45	4¢	65974
.46	.57	5¢	65975

.58	.68	6¢	65976
.69	.80	7¢	65977
.81	.91	8¢	65978
.92	1.02	9¢	65979
1.03	1.14	10¢	65980
1.15	1.25	11¢	65981
1.26	1.37	12¢	65982
1.38	1.48	13¢	65983
1.49	1.60	14¢	65984
1.61	1.71	15¢	65985
1.72	1.82	16¢	65986
1.83	1.94	17¢	65987
1.95	2.05	18¢	65988
2.06	2.17	19¢	65989
2.18	2.28	20¢	65990
2.29	2.40	21¢	65991
2.41	2.51	22¢	65992
2.52	2.62	23¢	65993
2.63	2.74	24¢	65994
2.75	2.85	25¢	65995
2.86	2.97	26¢	65996
2.98	3.08	27¢	65997
3.09	3.20	28¢	65998
3.21	3.31	29¢	65999
3.32	3.42	30¢	66000
3.43	3.54	31¢	66001
	3.65	32¢	66002
3.66	3.77	33¢	66003
3.78	3.88	34¢	66004
3.89	4.00	35¢	66005

If the price exceeds four dollars, the tax is thirty-five 66006
cents on each four dollars. If the price exceeds four dollars or a 66007
multiple thereof by not more than eleven cents, the amount of tax 66008

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 per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.22	2¢
.23	.33	3¢
.34	.44	4¢
.45	.55	5¢
.56	.66	6¢
.67	.77	7¢
.78	.88	8¢
.89	1.00	9¢

If the price exceeds one dollar, the tax is nine cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than eleven cents, the amount of tax is nine cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is nine cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-two cents, the amount of tax is nine cents for each one dollar plus the amount of tax for prices twenty-three cents through ninety-nine cents in accordance

with the schedule above.

66041

(C) On and after July 1, 2005, and on and before December 31,
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:

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(1) When the total rate of local tax is one-fourth per cent:

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~~If the price~~ ~~But not~~ ~~The amount~~
~~is at least~~ ~~more than~~ ~~of the tax is~~

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66049

\$.01	\$.15	No tax
.16	.19	1¢
.20	.38	2¢
.39	.57	3¢
.58	.76	4¢
.77	.95	5¢
.96	1.14	6¢
1.15	1.33	7¢
1.34	1.52	8¢
1.53	1.71	9¢
1.72	1.90	10¢
1.91	2.09	11¢
2.10	2.28	12¢
2.29	2.47	13¢
2.48	2.66	14¢
2.67	2.85	15¢
2.86	3.04	16¢
3.05	3.23	17¢
3.24	3.42	18¢
3.43	3.61	19¢
3.62	3.80	20¢
3.81	4.00	21¢

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~~If the price exceeds four dollars, the tax is twenty one~~

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~~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 is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.18	1¢
.19	.36	2¢
.37	.54	3¢
.55	.72	4¢
.73	.90	5¢
.91	1.09	6¢
1.10	1.27	7¢
1.28	1.46	8¢
1.47	1.64	9¢
1.65	1.82	10¢
1.83	2.00	11¢

~~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~~

			66105
cent-			
			66106
If the price	But not	The amount	
is at least	more than	of the tax is	66107
\$.01	\$.15	No tax	66108
.16	.17	1¢	66109
.18	.34	2¢	66110
.35	.52	3¢	66111
.53	.69	4¢	66112
.70	.86	5¢	66113
.87	1.04	6¢	66114
1.05	1.21	7¢	66115
1.22	1.39	8¢	66116
1.40	1.56	9¢	66117
1.57	1.73	10¢	66118
1.74	1.91	11¢	66119
1.92	2.08	12¢	66120
2.09	2.26	13¢	66121
2.27	2.43	14¢	66122
2.44	2.60	15¢	66123
2.61	2.78	16¢	66124
2.79	2.95	17¢	66125
2.96	3.13	18¢	66126
3.14	3.30	19¢	66127
3.31	3.47	20¢	66128
3.48	3.65	21¢	66129
3.66	3.82	22¢	66130
3.83	4.00	23¢	66131

If the price exceeds four dollars, the tax is twenty-three 66132
 cents on each four dollars. If the price exceeds four dollars or a 66133
 multiple thereof by not more than seventeen cents, the amount of 66134
 tax is twenty-three cents for each four dollars plus one cent. If 66135
 the price exceeds four dollars or a multiple thereof by more than 66136

seventeen cents, the amount of tax is twenty-three cents for each 66137
four dollars plus the amount of tax for prices eighteen cents 66138
through three dollars and ninety-nine cents in accordance with the 66139
schedule above. 66140

~~(4)~~(2) When the combined rate of local tax is ~~one~~ one-half 66141
per cent: 66142

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	66145
.16	.17	1¢	66146
.18	.34	2¢	66147
.35	.50	3¢	66148
.51	.67	4¢	66149
.68	.83	5¢	66150
.84	1.00	6¢	66151

If the price exceeds one dollar, the tax is six cents on each 66152
one dollar. If the price exceeds one dollar or a multiple thereof 66153
by not more than seventeen cents, the amount of tax is six cents 66154
for each one dollar plus one cent. If the price exceeds one dollar 66155
or a multiple thereof by more than seventeen cents, the amount of 66156
tax is six cents for each one dollar plus the amount of tax for 66157
prices eighteen cents through ninety-nine cents in accordance with 66158
the schedule above. 66159

~~(5)~~(3) When the combined rate of local tax is ~~one and~~ 66160
~~one-fourth~~ three-fourths per cent: 66161

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	66164
.16	.16	1¢	66165
.17	.32	2¢	66166
.33	.48	3¢	66167
.49	.64	4¢	66168

.65	.80	5¢	66169
.81	.96	6¢	66170
.97	1.12	7¢	66171
1.13	1.28	8¢	66172
1.29	1.44	9¢	66173
1.45	1.60	10¢	66174
1.61	1.76	11¢	66175
1.77	1.92	12¢	66176
1.93	2.08	13¢	66177
2.09	2.24	14¢	66178
2.25	2.40	15¢	66179
2.41	2.56	16¢	66180
2.57	2.72	17¢	66181
2.73	2.88	18¢	66182
2.89	3.04	19¢	66183
3.05	3.20	20¢	66184
3.21	3.36	21¢	66185
3.37	3.52	22¢	66186
3.53	3.68	23¢	66187
3.69	3.84	24¢	66188
3.85	4.00	25¢	66189

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(6)~~(4) When the combined rate of local tax is one ~~and~~ one-half per cent:

If the price	But not	The amount	66201
is at least	more than	of the tax is	66202
\$.01	\$.15	No tax	66203
.16	.30	2¢	66204
.31	.46	3¢	66205
.47	.61	4¢	66206
.62	.76	5¢	66207
.77	.92	6¢	66208
.93	1.07	7¢	66209
1.08	1.23	8¢	66210
1.24	1.38	9¢	66211
1.39	1.53	10¢	66212
1.54	1.69	11¢	66213
1.70	1.84	12¢	66214
1.85	2.00	13¢	66215

If the price exceeds two dollars, the tax is thirteen cents 66216
 on each two dollars. If the price exceeds two dollars or a 66217
 multiple thereof by not more than fifteen cents, the amount of tax 66218
 is thirteen cents for each two dollars plus one cent. If the price 66219
 exceeds two dollars or a multiple thereof by more than fifteen 66220
 cents, the amount of tax is thirteen cents for each two dollars 66221
 plus the amount of tax for prices sixteen cents through one dollar 66222
 and ninety-nine cents in accordance with the schedule above. 66223

~~(7)(5)~~ When the combined rate of local tax is one and 66224
~~three-fourths~~ one-fourth per cent: 66225

If the price	But not	The amount	66226
is at least	more than	of the tax is	66227
\$.01	\$.15	No tax	66228
.16	.29	2¢	66229
.30	.44	3¢	66230
.45	.59	4¢	66231
.60	.74	5¢	66232

.75	.88	6¢	66233
.89	1.03	7¢	66234
1.04	1.18	8¢	66235
1.19	1.33	9¢	66236
1.34	1.48	10¢	66237
1.49	1.62	11¢	66238
1.63	1.77	12¢	66239
1.78	1.92	13¢	66240
1.93	2.07	14¢	66241
2.08	2.22	15¢	66242
2.23	2.37	16¢	66243
2.38	2.51	17¢	66244
2.52	2.66	18¢	66245
2.67	2.81	19¢	66246
2.82	2.96	20¢	66247
2.97	3.11	21¢	66248
3.12	3.25	22¢	66249
3.26	3.40	23¢	66250
3.41	3.55	24¢	66251
3.56	3.70	25¢	66252
3.71	3.85	26¢	66253
3.86	4.00	27¢	66254

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.

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~~(8)~~(6) When the combined rate of local tax is ~~two~~ one and one-half per cent:

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66268

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.28	2¢
.29	.42	3¢
.43	.57	4¢
.58	.71	5¢
.72	.85	6¢
.86	1.00	7¢

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If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

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~~(9)~~(7) When the combined rate of local tax is ~~two~~ one and one-fourth three-fourths per cent:

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66287

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.27	2¢
.28	.41	3¢
.42	.55	4¢
.56	.68	5¢
.69	.82	6¢
.83	.96	7¢
.97	1.10	8¢

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1.11	1.24	9¢	66298
1.25	1.37	10¢	66299
1.38	1.51	11¢	66300
1.52	1.65	12¢	66301
1.66	1.79	13¢	66302
1.80	1.93	14¢	66303
1.94	2.06	15¢	66304
2.07	2.20	16¢	66305
2.21	2.34	17¢	66306
2.35	2.48	18¢	66307
2.49	2.62	19¢	66308
2.63	2.75	20¢	66309
2.76	2.89	21¢	66310
2.90	3.03	22¢	66311
3.04	3.17	23¢	66312
3.18	3.31	24¢	66313
3.32	3.44	25¢	66314
3.45	3.58	26¢	66315
3.59	3.72	27¢	66316
3.73	3.86	28¢	66317
3.87	4.00	29¢	66318

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~~ 66331
~~one-half~~ per cent: 66332

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	66335
.16	.26	2¢	66336
.27	.40	3¢	66337
.41	.53	4¢	66338
.54	.65	5¢	66339
.66	.80	6¢	66340
.81	.93	7¢	66341
.94	1.06	8¢	66342
1.07	1.20	9¢	66343
1.21	1.33	10¢	66344
1.34	1.46	11¢	66345
1.47	1.60	12¢	66346
1.61	1.73	13¢	66347
1.74	1.86	14¢	66348
1.87	2.00	15¢	66349

If the price exceeds two dollars, the tax is fifteen cents on 66350
 each two dollars. If the price exceeds two dollars or a multiple 66351
 thereof by not more than fifteen cents, the amount of tax is 66352
 fifteen cents for each two dollars plus one cent. If the price 66353
 exceeds two dollars or a multiple thereof by more than fifteen 66354
 cents, the amount of tax is fifteen cents for each two dollars 66355
 plus the amount of tax for prices sixteen cents through one dollar 66356
 and ninety-nine cents in accordance with the schedule above. 66357

~~(11)~~(9) When the combined rate of local tax is two and 66358
~~three-fourths~~ one-fourth per cent: 66359

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	66362

.16	.25	2¢	66363
.26	.38	3¢	66364
.39	.51	4¢	66365
.52	.64	5¢	66366
.65	.77	6¢	66367
.78	.90	7¢	66368
.91	1.03	8¢	66369
1.04	1.16	9¢	66370
1.17	1.29	10¢	66371
1.30	1.41	11¢	66372
1.42	1.54	12¢	66373
1.55	1.67	13¢	66374
1.68	1.80	14¢	66375
1.81	1.93	15¢	66376
1.94	2.06	16¢	66377
2.07	2.19	17¢	66378
2.20	2.32	18¢	66379
2.33	2.45	19¢	66380
2.46	2.58	20¢	66381
2.59	2.70	21¢	66382
2.71	2.83	22¢	66383
2.84	2.96	23¢	66384
2.97	3.09	24¢	66385
3.10	3.22	25¢	66386
3.23	3.35	26¢	66387
3.36	3.48	27¢	66388
3.49	3.61	28¢	66389
3.62	3.74	29¢	66390
3.75	3.87	30¢	66391
3.88	4.00	31¢	66392

If the price exceeds four dollars, the tax is thirty-one 66393
cents on each four dollars. If the price exceeds four dollars or a 66394
multiple thereof by not more than twelve cents, the amount of tax 66395

is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(12)~~(10) When the combined rate of local tax is ~~three two and~~ one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.25	2¢
.26	.37	3¢
.38	.50	4¢
.51	.62	5¢
.63	.75	6¢
.76	.87	7¢
.88	1.00	8¢

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

<u>(11) When the combined rate of local tax is two and</u>			66428
<u>three-fourths per cent:</u>			66429
<u>If the price</u>	<u>But not</u>	<u>The amount</u>	66430
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	66431
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	66432
<u>.16</u>	<u>.24</u>	<u>2¢</u>	66433
<u>.25</u>	<u>.36</u>	<u>3¢</u>	66434
<u>.37</u>	<u>.48</u>	<u>4¢</u>	66435
<u>.49</u>	<u>.60</u>	<u>5¢</u>	66436
<u>.61</u>	<u>.72</u>	<u>6¢</u>	66437
<u>.73</u>	<u>.84</u>	<u>7¢</u>	66438
<u>.85</u>	<u>.96</u>	<u>8¢</u>	66439
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	66440
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	66441
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	66442
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	66443
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	66444
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	66445
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	66446
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	66447
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	66448
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	66449
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	66450
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	66451
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	66452
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	66453
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	66454
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	66455
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	66456
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	66457
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	66458
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	66459
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	66460

<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	66461
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	66462
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	66463
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	66464

If the price exceeds four dollars, the tax is thirty-three 66465
cents on each four dollars. If the price exceeds four dollars or a 66466
multiple thereof by not more than eleven cents, the amount of tax 66467
is thirty-three cents for each four dollars plus one cent. If the 66468
price exceeds four dollars or a multiple thereof by more than 66469
eleven cents but not more than twenty-four cents, the amount of 66470
tax is thirty-three cents for each four dollars plus two cents. If 66471
the price exceeds four dollars or a multiple thereof by more than 66472
twenty-four cents, the amount of tax is thirty-three cents for 66473
each four dollars plus the amount of tax for prices twenty-six 66474
cents through three dollars and ninety-nine cents in accordance 66475
with the schedule above. 66476

(12) When the combined rate of local tax is three per cent: 66477

<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>	66478
<u>.16</u>	<u>.23</u>	<u>2¢</u>	66479
<u>.24</u>	<u>.35</u>	<u>3¢</u>	66480
<u>.36</u>	<u>.47</u>	<u>4¢</u>	66481
<u>.48</u>	<u>.58</u>	<u>5¢</u>	66482
<u>.59</u>	<u>.70</u>	<u>6¢</u>	66483
<u>.71</u>	<u>.82</u>	<u>7¢</u>	66484
<u>.83</u>	<u>.94</u>	<u>8¢</u>	66485
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	66486
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	66487
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	66488
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	66489
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	66490

<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	66493
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	66494
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	66495
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	66496

If the price exceeds two dollars, the tax is seventeen cents 66497
on each two dollars. If the price exceeds two dollars or a 66498
multiple thereof by not more than eleven cents, the amount of tax 66499
is seventeen cents for each two dollars plus one cent. If the 66500
price exceeds two dollars or a multiple thereof by more than 66501
eleven cents but not more than twenty-three cents, the amount of 66502
tax is seventeen cents for each two dollars plus two cents. If the 66503
price exceeds two dollars or a multiple thereof by more than 66504
twenty-three cents, the amount of tax is seventeen cents for each 66505
two dollars plus the amount of tax for prices twenty-four cents 66506
through one dollar and ninety-nine cents in accordance with the 66507
schedule above. 66508

(D) In lieu of collecting the tax pursuant to the schedules 66509
set forth in divisions (A), (B), and (C) of this section, a vendor 66510
may compute the tax on each sale as follows: 66511

(1) On sales of fifteen cents or less, no tax shall apply. 66512

(2) On sales in excess of fifteen cents, multiply the price 66513
by the aggregate rate of taxes in effect under sections 5739.02 66514
and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 66515
5741.022, and 5741.023 of the Revised Code. The computation shall 66516
be carried out to six decimal places. If the result is a 66517
fractional amount of a cent, the calculated tax shall be increased 66518
to the next highest cent and that amount shall be collected by the 66519
vendor. 66520

(E) On and after January 1, 2006, a vendor shall compute the 66521
tax on each sale by multiplying the price by the aggregate rate of 66522
taxes in effect under sections 5739.02 and 5741.02, and sections 66523

5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of 66524
the Revised Code. The computation shall be carried out to three 66525
decimal places. If the result is a fractional amount of a cent, 66526
the calculated tax shall be rounded to a whole cent using a method 66527
that rounds up to the next cent whenever the third decimal place 66528
is greater than four. A vendor may elect to compute the tax due on 66529
a transaction on an item or an invoice basis. 66530

(F) In auditing a vendor, the tax commissioner shall consider 66531
the method prescribed by this section that was used by the vendor 66532
in determining and collecting the tax due under this chapter on 66533
taxable transactions. If the vendor correctly collects and remits 66534
the tax due under this chapter in accordance with the schedules in 66535
divisions (A), (B), and (C) of this section or in accordance with 66536
the computation prescribed in division (D) or (E) of this section, 66537
the commissioner shall not assess any additional tax on those 66538
transactions. 66539

(G)(1) With respect to a sale of a fractional ownership 66540
program aircraft used primarily in a fractional aircraft ownership 66541
program, including all accessories attached to such aircraft, the 66542
tax shall be calculated pursuant to divisions (A) to (E) of this 66543
section, provided that the tax commissioner shall modify those 66544
calculations so that the maximum tax on each program aircraft is 66545
eight hundred dollars. In the case of a sale of a fractional 66546
interest that is less than one hundred per cent of the program 66547
aircraft, the tax charged on the transaction shall be eight 66548
hundred dollars multiplied by a fraction, the numerator of which 66549
is the percentage of ownership or possession in the aircraft being 66550
purchased in the transaction, and the denominator of which is one 66551
hundred per cent. 66552

(2) Notwithstanding any other provision of law to the 66553
contrary, the tax calculated under division (G)(1) of this section 66554
and paid with respect to the sale of a fractional ownership 66555

program aircraft used primarily in a fractional aircraft ownership 66556
program shall be credited to the general revenue fund. 66557

Sec. 5739.026. (A) A board of county commissioners may levy a 66558
tax of one-fourth or one-half of one per cent on every retail sale 66559
in the county, except sales of watercraft and outboard motors 66560
required to be titled pursuant to Chapter 1548. of the Revised 66561
Code and sales of motor vehicles, and may increase an existing 66562
rate of one-fourth of one per cent to one-half of one per cent, to 66563
pay the expenses of administering the tax and, except as provided 66564
in division (A)(6) of this section, for any one or more of the 66565
following purposes provided that the aggregate levy for all such 66566
purposes does not exceed one-half of one per cent: 66567

(1) To provide additional revenues for the payment of bonds 66568
or notes issued in anticipation of bonds issued by a convention 66569
facilities authority established by the board of county 66570
commissioners under Chapter 351. of the Revised Code and to 66571
provide additional operating revenues for the convention 66572
facilities authority; 66573

(2) To provide additional revenues for a transit authority 66574
operating in the county; 66575

(3) To provide additional revenue for the county's general 66576
fund; 66577

(4) To provide additional revenue for permanent improvements 66578
within the county to be distributed by the community improvements 66579
board in accordance with section 307.283 and to pay principal, 66580
interest, and premium on bonds issued under section 307.284 of the 66581
Revised Code; 66582

(5) To provide additional revenue for the acquisition, 66583
construction, equipping, or repair of any specific permanent 66584
improvement or any class or group of permanent improvements, which 66585

improvement or class or group of improvements shall be enumerated 66586
in the resolution required by division (D) of this section, and to 66587
pay principal, interest, premium, and other costs associated with 66588
the issuance of bonds or notes in anticipation of bonds issued 66589
pursuant to Chapter 133. of the Revised Code for the acquisition, 66590
construction, equipping, or repair of the specific permanent 66591
improvement or class or group of permanent improvements; 66592

(6) To provide revenue for the implementation and operation 66593
of a 9-1-1 system in the county. If the tax is levied or the rate 66594
increased exclusively for such purpose, the tax shall not be 66595
levied or the rate increased for more than five years. At the end 66596
of the last year the tax is levied or the rate increased, any 66597
balance remaining in the special fund established for such purpose 66598
shall remain in that fund and be used exclusively for such purpose 66599
until the fund is completely expended, and, notwithstanding 66600
section 5705.16 of the Revised Code, the board of county 66601
commissioners shall not petition for the transfer of money from 66602
such special fund, and the tax commissioner shall not approve such 66603
a petition. 66604

If the tax is levied or the rate increased for such purpose 66605
for more than five years, the board of county commissioners also 66606
shall levy the tax or increase the rate of the tax for one or more 66607
of the purposes described in divisions (A)(1) to (5) of this 66608
section and shall prescribe the method for allocating the revenues 66609
from the tax each year in the manner required by division (C) of 66610
this section. 66611

(7) To provide additional revenue for the operation or 66612
maintenance of a detention facility, as that term is defined under 66613
division (F) of section 2921.01 of the Revised Code; 66614

(8) To provide revenue to finance the construction or 66615
renovation of a sports facility, but only if the tax is levied for 66616

that purpose in the manner prescribed by section 5739.028 of the Revised Code. 66617
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As used in division (A)(8) of this section: 66619

(a) "Sports facility" means a facility intended to house major league professional athletic teams. 66620
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(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment. 66622
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(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county. 66624
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Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code. 66630
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The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter. 66635
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Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. Unless the resolution is adopted as an emergency measure, or is to be submitted to the electors of the county under division (D)(2)(a) of this section, the resolution shall be adopted at least one hundred twenty days prior to the date on which the tax or the increased rate of tax is to go into effect. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), or (9) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before

adopting a resolution levying a tax for the purpose of a 66680
convention facilities authority under division (A)(1) of this 66681
section or for the purpose of a community improvements board under 66682
division (A)(4) of this section. 66683

(C)(1) If the tax is to be used for more than one of the 66684
purposes set forth in divisions (A)(1) to (7) and (9) of this 66685
section, the board of county commissioners shall establish the 66686
method that will be used to determine the amount or proportion of 66687
the tax revenue received by the county during each year that will 66688
be distributed for each of those purposes, including, if 66689
applicable, provisions governing the reallocation of a convention 66690
facilities authority's allocation if the authority is dissolved 66691
while the tax is in effect. The allocation method may provide that 66692
different proportions or amounts of the tax shall be distributed 66693
among the purposes in different years, but it shall clearly 66694
describe the method that will be used for each year. Except as 66695
otherwise provided in division (C)(2) of this section, the 66696
allocation method established by the board is not subject to 66697
amendment during the life of the tax. 66698

(2) Subsequent to holding a public hearing on the proposed 66699
amendment, the board of county commissioners may amend the 66700
allocation method established under division (C)(1) of this 66701
section for any year, if the amendment is approved by the 66702
governing board of each entity whose allocation for the year would 66703
be reduced by the proposed amendment. In the case of a tax that is 66704
levied for a continuing period of time, the board may not so amend 66705
the allocation method for any year before the sixth year that the 66706
tax is in effect. 66707

(a) If the additional revenues provided to the convention 66708
facilities authority are pledged by the authority for the payment 66709
of convention facilities authority revenue bonds for as long as 66710
such bonds are outstanding, no reduction of the authority's 66711

allocation of the tax shall be made for any year except to the
extent that the reduced authority allocation, when combined with
the authority's other revenues pledged for that purpose, is
sufficient to meet the debt service requirements for that year on
such bonds.

(b) If the additional revenues provided to the county are
pledged by the county for the payment of bonds or notes described
in division (A)(4) or (5) of this section, for as long as such
bonds or notes are outstanding, no reduction of the county's or
the community improvements board's allocation of the tax shall be
made for any year, except to the extent that the reduced county or
community improvements board allocation is sufficient to meet the
debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit
authority are pledged by the authority for the payment of revenue
bonds issued under section 306.37 of the Revised Code, for as long
as such bonds are outstanding, no reduction of the authority's
allocation of tax shall be made for any year, except to the extent
that the authority's reduced allocation, when combined with the
authority's other revenues pledged for that purpose, is sufficient
to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are
pledged by the county for the payment of bonds or notes issued
under section 133.60 of the Revised Code, for so long as the bonds
or notes are outstanding, no reduction of the county's allocation
of the tax shall be made for any year, except to the extent that
the reduced county allocation is sufficient to meet the debt
service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate
of tax shall state the rate of the tax or the rate of the
increase; the purpose or purposes for which it is to be levied;

the number of years for which it is to be levied or that it is for
a continuing period of time; the allocation method required by
division (C) of this section; and if required to be submitted to
the electors of the county under division (A) of this section, the
date of the election at which the proposal shall be submitted to
the electors of the county, which shall be not less than
seventy-five days after the certification of a copy of the
resolution to the board of elections and, if the tax is to be
levied exclusively for the purpose set forth in division (A)(3) of
this section, shall not occur in February or August of any year.
Upon certification of the resolution to the board of elections,
the board of county commissioners shall notify the tax
commissioner in writing of the levy question to be submitted to
the electors. If approved by a majority of the electors, the tax
shall become effective on the first day of a calendar quarter next
following the sixty-fifth day following the date the board of
county commissioners and tax commissioner receive from the board
of elections the certification of the results of the election,
except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used
exclusively for the purpose set forth in division (A)(3) of this
section that is not adopted as an emergency measure may direct the
board of elections to submit the question of levying the tax or
increasing the rate of the tax to the electors of the county at a
special election held on the date specified by the board of county
commissioners in the resolution, provided that the election occurs
not less than seventy-five days after the resolution is certified
to the board of elections and the election is not held in February
or August of any year. Upon certification of the resolution to the
board of elections, the board of county commissioners shall notify
the tax commissioner in writing of the levy question to be
submitted to the electors. No resolution adopted under division

(D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may 66807
reduce the rate of a tax levied exclusively for the purpose set 66808
forth in division (A)(3) of this section to a lower rate 66809
authorized by this section. Any such reduction shall be made 66810
effective on the first day of the calendar quarter next following 66811
the sixty-fifth day after the tax commissioner receives a 66812
certified copy of the resolution from the board. 66813

(E) If a vendor that is registered with the central 66814
electronic registration system provided for in section 5740.05 of 66815
the Revised Code makes a sale in this state by printed catalog and 66816
the consumer computed the tax on the sale based on local rates 66817
published in the catalog, any tax levied or repealed or rate 66818
changed under this section shall not apply to such a sale until 66819
the first day of a calendar quarter following the expiration of 66820
one hundred twenty days from the date of notice by the tax 66821
commissioner pursuant to division (G) of this section. 66822

(F) The tax levied pursuant to this section shall be in 66823
addition to the tax levied by section 5739.02 of the Revised Code 66824
and any tax levied pursuant to section 5739.021 or 5739.023 of the 66825
Revised Code. 66826

A county that levies a tax pursuant to this section shall 66827
levy a tax at the same rate pursuant to section 5741.023 of the 66828
Revised Code. 66829

The additional tax levied by the county shall be collected 66830
pursuant to section 5739.025 of the Revised Code. 66831

Any tax levied pursuant to this section is subject to the 66832
exemptions provided in section 5739.02 of the Revised Code and in 66833
addition shall not be applicable to sales not within the taxing 66834
power of a county under the Constitution of the United States or 66835
the Ohio Constitution. 66836

(G) Upon receipt from a board of county commissioners of a 66837

certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.03. (A) Except as provided in section 5739.05 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(1) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale

is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer. 66869
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(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must provide to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as prescribed by the tax commissioner prescribes. 66871
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~~If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and the contractee. Such contractee shall be deemed to be the consumer of all items purchased under such claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by regulation prescribes.~~ 66880
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(b) A vendor that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 5741. of the Revised Code. Relief under this division from liability does not apply to any of the following: 66888
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(i) A vendor that fraudulently fails to collect tax; 66896

(ii) A vendor that solicits consumers to participate in the unlawful claim of an exemption; 66897
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(iii) A vendor that accepts an exemption certificate from a 66899

consumer that claims an exemption based on who purchases or who
sells property or a service, when the subject of the transaction
sought to be covered by the exemption certificate is actually
received by the consumer at a location operated by the vendor in
this state, and this state has posted to its web site an exemption
certificate form that clearly and affirmatively indicates that the
claimed exemption is not available in this state;

(iv) A vendor that accepts an exemption certificate from a
consumer who claims a multiple points of use exemption under
division (B) of section 5739.033 of the Revised Code, if the item
purchased is tangible personal property, other than prewritten
computer software.

(2) The vendor shall maintain records, including exemption
certificates, of all sales on which a consumer has claimed an
exemption, and provide them to the tax commissioner on request.

(3) The tax commissioner may establish an identification
system whereby the commissioner issues an identification number to
a consumer that is exempt from payment of the tax. The consumer
must present the number to the vendor, if any sale is claimed to
be exempt as provided in this section.

(4) If no certificate is provided or obtained within ~~the~~
~~period for filing the return for the period in~~ ninety days after
the date on which such sale is consummated, it shall be presumed
that the tax applies. Failure to have so provided or obtained a
certificate shall not ~~prevent~~ preclude a vendor ~~or consumer,~~
within one hundred twenty days after the tax commissioner gives
written notice of intent to levy an assessment, from either
establishing that the sale is not subject to the tax ~~within one~~
~~hundred twenty days of the giving of notice by the commissioner of~~
~~intention to levy an assessment, in which event the tax shall not~~
apply, or obtaining, in good faith, a fully completed exemption

certificate. 66931

(5) Certificates need not be obtained nor provided where the 66932
identity of the consumer is such that the transaction is never 66933
subject to the tax imposed or where the item of tangible personal 66934
property sold or the service provided is never subject to the tax 66935
imposed, regardless of use, or when the sale is in interstate 66936
commerce. 66937

(6) If a transaction is claimed to be exempt under division 66938
(B)(13) of section 5739.02 of the Revised Code, the contractor 66939
shall obtain certification of the claimed exemption from the 66940
contractee. This certification shall be in addition to an 66941
exemption certificate provided by the contractor to the vendor. A 66942
contractee that provides a certification under this division shall 66943
be deemed to be the consumer of all items purchased by the 66944
contractor under the claim of exemption, if it is subsequently 66945
determined that the exemption is not properly claimed. The 66946
certification shall be in such form as the tax commissioner 66947
prescribes. 66948

(C) As used in this division, "contractee" means a person who 66949
seeks to enter or enters into a contract or agreement with a 66950
contractor or vendor for the construction of real property or for 66951
the sale and installation onto real property of tangible personal 66952
property. 66953

Any contractor or vendor may request from any contractee a 66954
certification of what portion of the property to be transferred 66955
under such contract or agreement is to be incorporated into the 66956
realty and what portion will retain its status as tangible 66957
personal property after installation is completed. The contractor 66958
or vendor shall request the certification by certified mail 66959
delivered to the contractee, return receipt requested. Upon 66960
receipt of such request and prior to entering into the contract or 66961
agreement, the contractee shall provide to the contractor or 66962

vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a

certification under this division was made solely on the decision 66995
or advice of the contractor or vendor. 66996

(D) Notwithstanding division (B) of section 5739.01 of the 66997
Revised Code, whenever the total rate of tax imposed under this 66998
chapter is increased after the date after a construction contract 66999
is entered into, the contractee shall reimburse the construction 67000
contractor for any additional tax paid on tangible property 67001
consumed or services received pursuant to the contract. 67002

(E) A vendor who files a petition for reassessment contesting 67003
the assessment of tax on sales for which the vendor obtained no 67004
valid exemption certificates and for which the vendor failed to 67005
establish that the sales were properly not subject to the tax 67006
during the one-hundred-twenty-day period allowed under division 67007
(B) of this section, may present to the tax commissioner 67008
additional evidence to prove that the sales were properly subject 67009
to a claim of exception or exemption. The vendor shall file such 67010
evidence within ninety days of the receipt by the vendor of the 67011
notice of assessment, except that, upon application and for 67012
reasonable cause, the period for submitting such evidence shall be 67013
extended thirty days. 67014

The commissioner shall consider such additional evidence in 67015
reaching the final determination on the assessment and petition 67016
for reassessment. 67017

(F) Whenever a vendor refunds to the consumer the full price 67018
of an item of tangible personal property on which the tax imposed 67019
under this chapter has been paid, the vendor shall also refund the 67020
full amount of the tax paid. 67021

Sec. 5739.033. This section applies to sales made on and 67022
after July 1, 2005. Sales made before July 1, 2005, are subject to 67023
section 5739.035 of the Revised Code. On and after January 1, 67024

2005, any vendor may irrevocably elect to comply with this section 67025
for all of the vendor's sales and places of business in this 67026
state. 67027

The amount of tax due pursuant to sections 5739.02, 5739.021, 67028
5739.023, and 5739.026 of the Revised Code is the sum of the taxes 67029
imposed pursuant to those sections at the sourcing location of the 67030
sale as determined under this section or, if applicable, under 67031
division (C) of section 5739.031 or section 5739.034 or 5739.035 67032
of the Revised Code. This section applies only to a vendor's or 67033
seller's obligation to collect and remit sales taxes under section 67034
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or 67035
use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 67036
of the Revised Code. This section does not affect the obligation 67037
of a consumer to remit use taxes on the storage, use, or other 67038
consumption of tangible personal property or on the benefit 67039
realized of any service provided, to the jurisdiction of that 67040
storage, use, or consumption, or benefit realized. 67041

(A) Except for sales, other than leases, of titled motor 67042
vehicles, titled watercraft, or titled outboard motors as provided 67043
in section 5741.05 of the Revised Code, or as otherwise provided 67044
in this section and section 5739.034 or 5740.10 of the Revised 67045
Code, all sales shall be sourced as follows: 67046

(1) If the consumer or a donee designated by the consumer 67047
receives tangible personal property or a service at a vendor's 67048
place of business, the sale shall be sourced to that place of 67049
business. 67050

(2) When the tangible personal property or service is not 67051
received at a vendor's place of business, the sale shall be 67052
sourced to the location known to the vendor where the consumer or 67053
the donee designated by the consumer receives the tangible 67054
personal property or service, including the location indicated by 67055
instructions for delivery to the consumer or the consumer's donee. 67056

(3) If divisions (A)(1) and (2) of this section do not apply, 67057
the sale shall be sourced to the location indicated by an address 67058
for the consumer that is available from the vendor's business 67059
records that are maintained in the ordinary course of the vendor's 67060
business, when use of that address does not constitute bad faith. 67061

(4) If divisions (A)(1), (2), and (3) of this section do not 67062
apply, the sale shall be sourced to the location indicated by an 67063
address for the consumer obtained during the consummation of the 67064
sale, including the address associated with the consumer's payment 67065
instrument, if no other address is available, when use of that 67066
address does not constitute bad faith. 67067

(5) If divisions (A)(1), (2), (3), and (4) of this section do 67068
not apply, including in the circumstance where the vendor is 67069
without sufficient information to apply any of those divisions, 67070
the sale shall be sourced to the address from which tangible 67071
personal property was shipped, or from which the service was 67072
provided, disregarding any location that merely provided the 67073
electronic transfer of the property sold or service provided. 67074

(6) As used in division (A) of this section, "receive" means 67075
taking possession of tangible personal property or making first 67076
use of a service. "Receive" does not include possession by a 67077
shipping company on behalf of a consumer. 67078

(B)(1)(a) Notwithstanding divisions (A)(1) to (5) of this 67079
section, a business consumer that is not a holder of a direct 67080
payment permit granted under section 5739.031 of the Revised Code, 67081
that purchases a digital good, computer software ~~delivered~~ 67082
electronically, except computer software received in person by a 67083
business consumer at a vendor's place of business, or a service 67084
~~for use in business~~, and that knows at the time of purchase that 67085
such digital good, software, or service will be concurrently 67086
available for use in more than one taxing jurisdiction shall 67087

deliver to the vendor in conjunction with its purchase a an 67088
exemption certificate claiming multiple points of use exemption 67089
form prescribed by the tax commissioner disclosing this fact, or 67090
shall meet the requirements of division (B)(2) of this section. On 67091
receipt of the exemption certificate claiming multiple points of 67092
use ~~exemption form~~, the vendor is relieved of its obligation to 67093
collect, pay, or remit the tax due, and the business consumer must 67094
pay the tax directly to the state. 67095

~~(2)(b)~~ A business consumer that delivers ~~such form~~ the 67096
exemption certificate claiming multiple points of use to a vendor 67097
may use any reasonable, consistent, and uniform method of 67098
apportioning the tax due on the digital good, computer software 67099
~~delivered electronically,~~ or service ~~for use in business~~ that is 67100
supported by the consumer's business records as they existed at 67101
the time of the sale. The business consumer shall report and pay 67102
the appropriate tax to each jurisdiction where concurrent use 67103
occurs. The tax due shall be calculated as if the apportioned 67104
amount of the digital good, computer software, or service had been 67105
delivered to each jurisdiction to which the sale is apportioned 67106
under this division. 67107

~~(3)(c)~~ The exemption certificate claiming multiple points of 67108
use ~~exemption form~~ shall remain in effect for all future sales by 67109
the vendor to the business consumer until it is revoked in writing 67110
by the business consumer, except as to the business consumer's 67111
specific apportionment of a subsequent sale under division 67112
(B)~~(2)(1)(b)~~ of this section and the facts existing at the time of 67113
the sale. 67114

(2) When the vendor knows that a digital good, computer 67115
software, or service sold will be concurrently available for use 67116
by the business consumer in more than one jurisdiction, but the 67117
business consumer does not provide an exemption certificate 67118
claiming multiple points of use as required by division (B)(1) of 67119

this section, the vendor may work with the business consumer to 67120
produce the correct apportionment. Governed by the principles of 67121
division (B)(1)(b) of this section, the vendor and business 67122
consumer may use any reasonable, but consistent and uniform, 67123
method of apportionment that is supported by the vendor's and 67124
business consumer's books and records as they exist at the time 67125
the sale is reported for purposes of the taxes levied under this 67126
chapter. If the business consumer certifies to the accuracy of the 67127
apportionment and the vendor accepts the certification, the vendor 67128
shall collect and remit the tax accordingly. In the absence of bad 67129
faith, the vendor is relieved of any further obligation to collect 67130
tax on any transaction where the vendor has collected tax pursuant 67131
to the information certified by the business consumer. 67132

(3) When the vendor knows that the digital good, computer 67133
software, or service will be concurrently available for use in 67134
more than one jurisdiction, and the business consumer does not 67135
have a direct pay permit and does not provide to the vendor an 67136
exemption certificate claiming multiple points of use as required 67137
in division (B)(1) of this section, or certification pursuant to 67138
division (B)(2) of this section, the vendor shall collect and 67139
remit the tax based on division (A) of this section. 67140

(4) Nothing in this section shall limit a person's obligation 67141
for sales or use tax to any state in which a digital good, 67142
computer software, or service is concurrently available for use, 67143
nor limit a person's ability under local, state, or federal law, 67144
to claim a credit for sales or use taxes legally due and paid to 67145
other jurisdictions. 67146

(C) A person who holds a direct payment permit issued under 67147
section 5739.031 of the Revised Code is not required to deliver a 67148
an exemption certificate claiming multiple points of use exemption 67149
form to a vendor. But such permit holder shall comply with 67150
division (B)~~(2)~~(1)(b) of this section in apportioning the tax due 67151

on a digital good, computer software ~~delivered electronically~~, or 67152
a service ~~used~~ for use in business that will be concurrently 67153
available for use in more than one taxing jurisdiction. 67154

(D)(1) Notwithstanding divisions (A)(1) to (5) of this 67155
section, the ~~purchaser~~ consumer of direct mail that is not a 67156
holder of a direct payment permit shall provide to the vendor in 67157
conjunction with the ~~purchase~~ sale either a an exemption 67158
certificate claiming direct mail ~~form~~ prescribed by the tax 67159
commissioner, or information to show the jurisdictions to which 67160
the direct mail is delivered to recipients. 67161

(2) Upon receipt of a ~~direct mail form~~ such exemption 67162
certificate, the vendor is relieved of all obligations to collect, 67163
pay, or remit the applicable tax and the ~~purchaser~~ consumer is 67164
obligated to pay that tax on a direct pay basis. A An exemption 67165
certificate claiming direct mail ~~form~~ shall remain in effect for 67166
all future sales of direct mail by the vendor to the ~~purchaser~~ 67167
consumer until it is revoked in writing. 67168

(3) Upon receipt of information from the ~~purchaser~~ consumer 67169
showing the jurisdictions to which the direct mail is delivered to 67170
recipients, the vendor shall collect the tax according to the 67171
delivery information provided by the ~~purchaser~~ consumer. In the 67172
absence of bad faith, the vendor is relieved of any further 67173
obligation to collect tax on any transaction where the vendor has 67174
collected tax pursuant to the delivery information provided by the 67175
~~purchaser~~ consumer. 67176

(4) If the ~~purchaser~~ consumer of direct mail does not have a 67177
direct payment permit and does not provide the vendor with either 67178
a an exemption certificate claiming direct mail ~~form~~ or delivery 67179
information as required by division (D)(1) of this section, the 67180
vendor shall collect the tax according to division (A)(5) of this 67181
section. Nothing in division (D)(4) of this section shall limit a 67182
~~purchaser's~~ consumer's obligation to pay sales or use tax to any 67183

state to which the direct mail is delivered. 67184

(5) If a ~~purchaser~~ consumer of direct mail provides the 67185
vendor with documentation of direct payment authority, the 67186
~~purchaser~~ consumer shall not be required to provide a an exemption 67187
certificate claiming direct mail ~~form~~ or delivery information to 67188
the vendor. 67189

(E) If the vendor provides lodging to transient guests as 67190
specified in division (B)(2) of section 5739.01 of the Revised 67191
Code, the sale shall be sourced to the location where the lodging 67192
is located. 67193

(F)(1) As used in this division and division (G) of this 67194
section, "transportation equipment" means any of the following: 67195

(a) Locomotives and railcars that are utilized for the 67196
carriage of persons or property in interstate commerce. 67197

(b) Trucks and truck-tractors with a gross vehicle weight 67198
rating of greater than ten thousand pounds, trailers, 67199
semi-trailers, or passenger buses that are registered through the 67200
international registration plan and are operated under authority 67201
of a carrier authorized and certificated by the United States 67202
department of transportation or another federal authority to 67203
engage in the carriage of persons or property in interstate 67204
commerce. 67205

(c) Aircraft that are operated by air carriers authorized and 67206
certificated by the United States department of transportation or 67207
another federal authority to engage in the carriage of persons or 67208
property in interstate or foreign commerce. 67209

(d) Containers designed for use on and component parts 67210
attached to or secured on the items set forth in division 67211
(F)(1)(a), (b), or (c) of this section. 67212

(2) A sale, lease, or rental of transportation equipment 67213

shall be sourced pursuant to division (A) of this section. 67214

(G)(1) A lease or rental of tangible personal property that 67215
does not require recurring periodic payments shall be sourced 67216
pursuant to division (A) of this section. 67217

(2) A lease or rental of tangible personal property that 67218
requires recurring periodic payments shall be sourced as follows: 67219

(a) In the case of a motor vehicle, other than a motor 67220
vehicle that is transportation equipment, or an aircraft, other 67221
than an aircraft that is transportation equipment, such lease or 67222
rental shall be sourced ~~to the primary property location~~ as 67223
follows: 67224

(i) ~~For~~ An accelerated tax payment on a lease or rental taxed 67225
pursuant to division (A)(2) of section 5739.02 of the Revised 67226
Code, shall be sourced to the primary property location ~~is the~~ 67227
~~address of the lessee or renter used for titling the motor vehicle~~ 67228
~~pursuant to section 4505.06 of the Revised Code at the time the~~ 67229
lease or rental is consummated. Any subsequent taxable charges on 67230
the lease or rental shall be sourced to the primary property 67231
location for the period in which the charges are incurred. 67232

(ii) For a lease or rental taxed pursuant to division (A)(3) 67233
of section 5739.02 of the Revised Code, ~~the primary property~~ 67234
~~location for~~ each lease or rental installment is shall be sourced 67235
to the primary property location for the period covered by the 67236
installment. 67237

~~(b) In the case of an aircraft, other than an aircraft that~~ 67238
~~is transportation equipment, such lease or rental shall be sourced~~ 67239
~~to the primary property location as follows:~~ 67240

~~(i) For a lease or rental taxed pursuant to division (A)(2)~~ 67241
~~of section 5739.02 of the Revised Code, the primary property~~ 67242
~~location is the primary property location at the time the lease or~~ 67243

~~rental is consummated.~~ 67244

~~(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.~~ 67245
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~~(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or rental shall be sourced to the primary property location as follows:~~ 67249
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~~(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title.~~ 67253
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~~(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.~~ 67257
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~~(d)(b)~~ In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows: 67264
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(i) ~~For~~ An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, ~~the lease or rental~~ shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred. 67267
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(ii) For a lease or rental that is taxed pursuant to division 67274

(A)(3) of section 5739.02 of the Revised Code, the initial lease
or rental installment shall be sourced pursuant to division (A) of
this section. Each subsequent installment shall be sourced to the
primary property location for the period covered by the
installment.

(3) As used in division (G) of this section, "primary
property location" means an address for tangible personal property
provided by the lessee or renter that is available to the lessor
or owner from its records maintained in the ordinary course of
business, when use of that address does not constitute bad faith.

Sec. 5739.034. (A) As used in this section:

(1) "Air-to-ground radiotelephone service" means a radio
service, as defined in 47 C.F.R. 22.99, in which common carriers
are authorized to offer and provide radio telecommunications
service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for
telecommunications services where the price is measured by
individual calls.

(3) "Customer" means the person or entity that contracts with
a seller of telecommunications service. If the end user of
telecommunications service is not the contracting party, the end
user of the telecommunications service is the customer of the
telecommunications service. "Customer" does not include a reseller
of telecommunications service or of mobile telecommunications
service of a serving carrier under an agreement to serve the
customer outside the home service provider's licensed service
area.

(4) "End user" means the person who utilizes the
telecommunications service. In the case of a person other than an
individual, "end user" means the individual who utilizes the

service on behalf of the person.

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(5) "Home service provider" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended.

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(6) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

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(7) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

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"Post-paid calling service" includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service, but for the fact that it is not exclusively a telecommunications service.

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(8) ~~"Prepaid calling service" means the right to access exclusively a telecommunications service that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount and "prepaid wireless calling service" have the same meanings as in section 5739.01 of the Revised Code.~~

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(9) "Service address" means:

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(a) The location of the telecommunications equipment to which

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a customer's call is charged and from which the call originates or
terminates, regardless of where the call is billed or paid. 67336
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(b) If the location in division (A)(9)(a) of this section is 67338
not known, "service address" means the origination point of the 67339
signal of the telecommunications service first identified by 67340
either the seller's telecommunications system or in information 67341
received by the seller from its service provider, where the system 67342
used to transport such signals is not that of the seller. 67343

(c) If the locations in divisions (A)(9)(a) and (b) of this 67344
section are not known, "service address" means the location of the 67345
customer's place of primary use. 67346

(10) "Private communication service" means a 67347
telecommunications service that entitles a customer to exclusive 67348
or priority use of a communications channel or group of channels 67349
between or among termination points, regardless of the manner in 67350
which the channel or channels are connected, and includes 67351
switching capacity, extension lines, stations, and any other 67352
associated services that are provided in connection with the use 67353
of such channel or channels. 67354

(B) The amount of tax due pursuant to sections 5739.02, 67355
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 67356
telecommunications service, information service, or mobile 67357
telecommunications service, is the sum of the taxes imposed 67358
pursuant to those sections at the sourcing location of the sale as 67359
determined under this section. 67360

(C) Except for the telecommunications services described in 67361
division (E) of this section, the sale of telecommunications 67362
service sold on a call-by-call basis shall be sourced to each 67363
level of taxing jurisdiction where the call originates and 67364
terminates in that jurisdiction, or each level of taxing 67365
jurisdiction where the call either originates or terminates and in 67366

which the service address also is located. 67367

(D) Except for the telecommunications services described in 67368
division (E) of this section, a sale of telecommunications 67369
services sold on a basis other than a call-by-call basis shall be 67370
sourced to the customer's place of primary use. 67371

(E) The sale of the following telecommunications services 67372
shall be sourced to each level of taxing jurisdiction, as follows: 67373

(1) A sale of mobile telecommunications service, other than 67374
air-to-ground radiotelephone service and prepaid calling service, 67375
shall be sourced to the customer's place of primary use as 67376
required by the Mobile Telecommunications Sourcing Act. 67377

(2) A sale of post-paid calling service shall be sourced to 67378
the origination point of the telecommunications signal as first 67379
identified by the service provider's telecommunications system, or 67380
information received by the seller from its service provider, 67381
where the system used to transport such signals is not that of the 67382
seller. 67383

(3) A sale of ~~mobile telecommunications service that is a~~ 67384
~~prepaid telecommunications calling service or prepaid wireless~~ 67385
calling service shall be sourced under division (A) of section 67386
5739.033 of the Revised Code, ~~but~~. But in the case of prepaid 67387
wireless calling service, in lieu of sourcing the sale of the 67388
service under division (A)(5) of ~~that~~ section 5739.033 of the 67389
Revised Code, ~~it may be sourced~~ the service provider may elect to 67390
source the sale to the location associated with the mobile 67391
telephone number. 67392

(4) A sale of a private communication service shall be 67393
sourced as follows: 67394

(a) Service for a separate charge related to a customer 67395
channel termination point shall be sourced to each level of 67396

jurisdiction in which the customer channel termination point is located; 67397
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(b) Service where all customer channel termination points are located entirely within one jurisdiction or level of jurisdiction shall be sourced in the jurisdiction in which the customer channel termination points are located; 67399
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(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged shall be sourced fifty per cent in each level of jurisdiction in which the customer channel termination points are located; 67403
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(d) Service for segments of a channel located in more than one jurisdiction or level of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points. 67408
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Sec. 5739.035. This section only applies to sales that are required to be sitused under this section pursuant to section 5739.033 of the Revised Code. 67414
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(A) Except as otherwise provided in this section, the situs of all sales is the vendor's place of business. 67417
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(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business. 67419
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(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the 67423
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vendor's place of business where the purchase contract or agreement was made or the purchase order was received. 67427
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(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), (o), (q), (r), or (s), ~~or (t)~~ of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received. 67429
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(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the situs of the sale is the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property. 67436
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(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the situs of the sale is the location of the motor vehicle when the sale is made. 67442
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(D) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the situs of the sale is the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received. 67449
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(E) If the vendor provides a service specified in division (B)(3)(e), (g), (h), (j), (k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of the Revised Code, the situs of the sale is the location of the consumer where the service is performed or 67454
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received. 67458

(F) If the vendor provides lodging to transient guests as 67459
specified in division (B)(2) of section 5739.01 of the Revised 67460
Code, the situs of the sale is the location where the lodging is 67461
located. 67462

(G) If the vendor sells a warranty, maintenance or service 67463
contract, or similar agreement as specified in division (B)(7) of 67464
section 5739.01 of the Revised Code and the vendor is a delivery 67465
vendor, the situs of the sale is the location of the consumer. If 67466
the vendor is not a delivery vendor, the situs of the sale is the 67467
vendor's place of business where the contract or agreement was 67468
made, unless the warranty or contract is a component of the sale 67469
of a titled motor vehicle, titled watercraft, or titled outboard 67470
motor, in which case the situs of the sale is the county of 67471
titling. 67472

(H) Except as otherwise provided in this division, if the 67473
vendor sells a prepaid authorization number or a prepaid telephone 67474
calling card, the situs of the sale is the vendor's place of 67475
business and shall be taxed at the time of sale. If the vendor 67476
sells a prepaid authorization number or prepaid telephone calling 67477
card through a telephone call, electronic commerce, or any other 67478
form of remote commerce, the situs of the sale is the consumer's 67479
shipping address, or, if there is no item shipped, at the 67480
consumer's billing address. 67481

Sec. 5739.09. (A)(1) A board of county commissioners may, by 67482
resolution adopted by a majority of the members of the board, levy 67483
an excise tax not to exceed three per cent on transactions by 67484
which lodging by a hotel is or is to be furnished to transient 67485
guests. The board shall establish all regulations necessary to 67486
provide for the administration and allocation of the tax. The 67487
regulations may prescribe the time for payment of the tax, and may 67488

provide for the imposition of a penalty or interest, or both, for 67489
late payments, provided that the penalty does not exceed ten per 67490
cent of the amount of tax due, and the rate at which interest 67491
accrues does not exceed the rate per annum prescribed pursuant to 67492
section 5703.47 of the Revised Code. Except as provided in 67493
divisions (A)(2), (3), (4), and (5) of this section, the 67494
regulations shall provide, after deducting the real and actual 67495
costs of administering the tax, for the return to each municipal 67496
corporation or township that does not levy an excise tax on the 67497
transactions, a uniform percentage of the tax collected in the 67498
municipal corporation or in the unincorporated portion of the 67499
township from each transaction, not to exceed thirty-three and 67500
one-third per cent. The remainder of the revenue arising from the 67501
tax shall be deposited in a separate fund and shall be spent 67502
solely to make contributions to the convention and visitors' 67503
bureau or community improvement corporation operating within the 67504
county, including a pledge and contribution of any portion of the 67505
remainder pursuant to an agreement authorized by section 307.695 67506
of the Revised Code. Except as provided in division (A)(2), (3), 67507
(4), or (5) or (H) of this section, on and after May 10, 1994, a 67508
board of county commissioners may not levy an excise tax pursuant 67509
to this division in any municipal corporation or township located 67510
wholly or partly within the county that has in effect an ordinance 67511
or resolution levying an excise tax pursuant to division (B) of 67512
this section. The board of a county that has levied a tax under 67513
division (C) of this section may, by resolution adopted within 67514
ninety days after July 15, 1985, by a majority of the members of 67515
the board, amend the resolution levying a tax under this division 67516
to provide for a portion of that tax to be pledged and contributed 67517
in accordance with an agreement entered into under section 307.695 67518
of the Revised Code. A tax, any revenue from which is pledged 67519
pursuant to such an agreement, shall remain in effect at the rate 67520

at which it is imposed for the duration of the period for which 67521
the revenue from the tax has been so pledged. 67522

(2) A board of county commissioners that levies an excise tax 67523
under division (A)(1) of this section on June 30, 1997, at a rate 67524
of three per cent, and that has pledged revenue from the tax to an 67525
agreement entered into under section 307.695 of the Revised Code, 67526
may amend the resolution levying that tax to provide for an 67527
increase in the rate of the tax up to five per cent on each 67528
transaction; to provide that revenue from the increase in the rate 67529
shall be spent solely to make contributions to the convention and 67530
visitors' bureau operating within the county to be used 67531
specifically for promotion, advertising, and marketing of the 67532
region in which the county is located; to provide that the rate in 67533
excess of the three per cent levied under division (A)(1) of this 67534
section shall remain in effect at the rate at which it is imposed 67535
for the duration of the period during which any agreement is in 67536
effect that was entered into under section 307.695 of the Revised 67537
Code by the board of county commissioners levying a tax under 67538
division (A)(1) of this section; and to provide that no portion of 67539
that revenue need be returned to townships or municipal 67540
corporations as would otherwise be required under division (A)(1) 67541
of this section. 67542

(3) A board of county commissioners that levies a tax under 67543
division (A)(1) of this section on March 18, 1999, at a rate of 67544
three per cent may, by resolution adopted not later than 67545
forty-five days after March 18, 1999, amend the resolution levying 67546
the tax to provide for all of the following: 67547

(a) That the rate of the tax shall be increased by not more 67548
than an additional four per cent on each transaction; 67549

(b) That all of the revenue from the increase in the rate 67550
shall be pledged and contributed to a convention facilities 67551

authority established by the board of county commissioners under 67552
Chapter 351. of the Revised Code on or before November 15, 1998, 67553
and used to pay costs of constructing, maintaining, operating, and 67554
promoting a facility in the county, including paying bonds, or 67555
notes issued in anticipation of bonds, as provided by that 67556
chapter; 67557

(c) That no portion of the revenue arising from the increase 67558
in rate need be returned to municipal corporations or townships as 67559
otherwise required under division (A)(1) of this section; 67560

(d) That the increase in rate shall not be subject to 67561
diminution by initiative or referendum or by law while any bonds, 67562
or notes in anticipation of bonds, issued by the authority under 67563
Chapter 351. of the Revised Code to which the revenue is pledged, 67564
remain outstanding in accordance with their terms, unless 67565
provision is made by law or by the board of county commissioners 67566
for an adequate substitute therefor that is satisfactory to the 67567
trustee if a trust agreement secures the bonds. 67568

Division (A)(3) of this section does not apply to the board 67569
of county commissioners of any county in which a convention center 67570
or facility exists or is being constructed on November 15, 1998, 67571
or of any county in which a convention facilities authority levies 67572
a tax pursuant to section 351.021 of the Revised Code on that 67573
date. 67574

As used in division (A)(3) of this section, "cost" and 67575
"facility" have the same meanings as in section 351.01 of the 67576
Revised Code, and "convention center" has the same meaning as in 67577
section 307.695 of the Revised Code. 67578

(4) A board of county commissioners that levies a tax under 67579
division (A)(1) of this section on June 30, 2002, at a rate of 67580
three per cent may, by resolution adopted not later than September 67581
30, 2002, amend the resolution levying the tax to provide for all 67582

of the following:

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(a) That the rate of the tax shall be increased by not more
than an additional three and one-half per cent on each
transaction;

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(b) That all of the revenue from the increase in rate shall
be pledged and contributed to a convention facilities authority
established by the board of county commissioners under Chapter
351. of the Revised Code on or before May 15, 2002, and be used to
pay costs of constructing, expanding, maintaining, operating, or
promoting a convention center in the county, including paying
bonds, or notes issued in anticipation of bonds, as provided by
that chapter;

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(c) That no portion of the revenue arising from the increase
in rate need be returned to municipal corporations or townships as
otherwise required under division (A)(1) of this section;

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(d) That the increase in rate shall not be subject to
diminution by initiative or referendum or by law while any bonds,
or notes in anticipation of bonds, issued by the authority under
Chapter 351. of the Revised Code to which the revenue is pledged,
remain outstanding in accordance with their terms, unless
provision is made by law or by the board of county commissioners
for an adequate substitute therefor that is satisfactory to the
trustee if a trust agreement secures the bonds.

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As used in division (A)(4) of this section, "cost" has the
same meaning as in section 351.01 of the Revised Code, and
"convention center" has the same meaning as in section 307.695 of
the Revised Code.

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(5)(a) As used in division (A)(5) of this section:

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(i) "Port authority" means a port authority created under
Chapter 4582. of the Revised Code.

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(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by

ordinance or resolution, levy an excise tax not to exceed three
per cent on transactions by which lodging by a hotel is or is to
be furnished to transient guests. The legislative authority of the
municipal corporation or the board of trustees of the township
shall deposit at least fifty per cent of the revenue from the tax
levied pursuant to this division into a separate fund, which shall
be spent solely to make contributions to convention and visitors'
bureaus operating within the county in which the municipal
corporation or township is wholly or partly located, and the
balance of that revenue shall be deposited in the general fund.
The municipal corporation or township shall establish all
regulations necessary to provide for the administration and
allocation of the tax. The regulations may prescribe the time for
payment of the tax, and may provide for the imposition of a
penalty or interest, or both, for late payments, provided that the
penalty does not exceed ten per cent of the amount of tax due, and
the rate at which interest accrues does not exceed the rate per
annum prescribed pursuant to section 5703.47 of the Revised Code.
The levy of a tax under this division is in addition to any tax
imposed on the same transaction by a municipal corporation or a
township as authorized by division (A) of section 5739.08 of the
Revised Code.

(2) The legislative authority of the most populous municipal
corporation located wholly or partly in a county in which the
board of county commissioners has levied a tax under division
(A)(4) of this section may amend, on or before September 30, 2002,
that municipal corporation's ordinance or resolution that levies
an excise tax on transactions by which lodging by a hotel is or is
to be furnished to transient guests, to provide for all of the
following:

(a) That the rate of the tax shall be increased by not more
than an additional one per cent on each transaction;

(b) That all of the revenue from the increase in rate shall 67676
be pledged and contributed to a convention facilities authority 67677
established by the board of county commissioners under Chapter 67678
351. of the Revised Code on or before May 15, 2002, and be used to 67679
pay costs of constructing, expanding, maintaining, operating, or 67680
promoting a convention center in the county, including paying 67681
bonds, or notes issued in anticipation of bonds, as provided by 67682
that chapter; 67683

(c) That the increase in rate shall not be subject to 67684
diminution by initiative or referendum or by law while any bonds, 67685
or notes in anticipation of bonds, issued by the authority under 67686
Chapter 351. of the Revised Code to which the revenue is pledged, 67687
remain outstanding in accordance with their terms, unless 67688
provision is made by law, by the board of county commissioners, or 67689
by the legislative authority, for an adequate substitute therefor 67690
that is satisfactory to the trustee if a trust agreement secures 67691
the bonds. 67692

As used in division (B)(2) of this section, "cost" has the 67693
same meaning as in section 351.01 of the Revised Code, and 67694
"convention center" has the same meaning as in section 307.695 of 67695
the Revised Code. 67696

(C) For the purpose of making the payments authorized by 67697
section 307.695 of the Revised Code to construct and equip a 67698
convention center in the county and to cover the costs of 67699
administering the tax, a board of county commissioners of a county 67700
where a tax imposed under division (A)(1) of this section is in 67701
effect may, by resolution adopted within ~~ninety~~ one hundred eighty 67702
days after July ~~15, 1985~~ 1, 2005, by a majority of the members of 67703
the board, levy an additional excise tax not to exceed three per 67704
cent on transactions by which lodging by a hotel is or is to be 67705
furnished to transient guests. The tax authorized by this division 67706
shall be in addition to any tax that is levied pursuant to 67707

division (A) of this section, but it shall not apply to 67708
transactions subject to a tax levied by a municipal corporation or 67709
township pursuant to the authorization granted by division (A) of 67710
section 5739.08 of the Revised Code. The board shall establish all 67711
regulations necessary to provide for the administration and 67712
allocation of the tax. The regulations may prescribe the time for 67713
payment of the tax, and may provide for the imposition of a 67714
penalty or interest, or both, for late payments, provided that the 67715
penalty does not exceed ten per cent of the amount of tax due, and 67716
the rate at which interest accrues does not exceed the rate per 67717
annum prescribed pursuant to section 5703.47 of the Revised Code. 67718
All revenues arising from the tax shall be expended in accordance 67719
with section 307.695 of the Revised Code. A tax imposed under this 67720
division shall remain in effect at the rate at which it is imposed 67721
for the duration of the period for which the revenue from the tax 67722
has been pledged pursuant to that section. 67723

(D) For the purpose of providing contributions under division 67724
(B)(1) of section 307.671 of the Revised Code to enable the 67725
acquisition, construction, and equipping of a port authority 67726
educational and cultural facility in the county and, to the extent 67727
provided for in the cooperative agreement authorized by that 67728
section, for the purpose of paying debt service charges on bonds, 67729
or notes in anticipation of bonds, described in division (B)(1)(b) 67730
of that section, a board of county commissioners, by resolution 67731
adopted within ninety days after December 22, 1992, by a majority 67732
of the members of the board, may levy an additional excise tax not 67733
to exceed one and one-half per cent on transactions by which 67734
lodging by a hotel is or is to be furnished to transient guests. 67735
The excise tax authorized by this division shall be in addition to 67736
any tax that is levied pursuant to divisions (A), (B), and (C) of 67737
this section, to any excise tax levied pursuant to section 5739.08 67738
of the Revised Code, and to any excise tax levied pursuant to 67739
section 351.021 of the Revised Code. The board of county 67740

commissioners shall establish all regulations necessary to provide 67741
for the administration and allocation of the tax that are not 67742
inconsistent with this section or section 307.671 of the Revised 67743
Code. The regulations may prescribe the time for payment of the 67744
tax, and may provide for the imposition of a penalty or interest, 67745
or both, for late payments, provided that the penalty does not 67746
exceed ten per cent of the amount of tax due, and the rate at 67747
which interest accrues does not exceed the rate per annum 67748
prescribed pursuant to section 5703.47 of the Revised Code. All 67749
revenues arising from the tax shall be expended in accordance with 67750
section 307.671 of the Revised Code and division (D) of this 67751
section. The levy of a tax imposed under this division may not 67752
commence prior to the first day of the month next following the 67753
execution of the cooperative agreement authorized by section 67754
307.671 of the Revised Code by all parties to that agreement. The 67755
tax shall remain in effect at the rate at which it is imposed for 67756
the period of time described in division (C) of section 307.671 of 67757
the Revised Code for which the revenue from the tax has been 67758
pledged by the county to the corporation pursuant to that section, 67759
but, to any extent provided for in the cooperative agreement, for 67760
no lesser period than the period of time required for payment of 67761
the debt service charges on bonds, or notes in anticipation of 67762
bonds, described in division (B)(1)(b) of that section. 67763

(E) For the purpose of paying the costs of acquiring, 67764
constructing, equipping, and improving a municipal educational and 67765
cultural facility, including debt service charges on bonds 67766
provided for in division (B) of section 307.672 of the Revised 67767
Code, and for any additional purposes determined by the county in 67768
the resolution levying the tax or amendments to the resolution, 67769
including subsequent amendments providing for paying costs of 67770
acquiring, constructing, renovating, rehabilitating, equipping, 67771
and improving a port authority educational and cultural performing 67772

arts facility, as defined in section 307.674 of the Revised Code, 67773
and including debt service charges on bonds provided for in 67774
division (B) of section 307.674 of the Revised Code, the 67775
legislative authority of a county, by resolution adopted within 67776
ninety days after June 30, 1993, by a majority of the members of 67777
the legislative authority, may levy an additional excise tax not 67778
to exceed one and one-half per cent on transactions by which 67779
lodging by a hotel is or is to be furnished to transient guests. 67780
The excise tax authorized by this division shall be in addition to 67781
any tax that is levied pursuant to divisions (A), (B), (C), and 67782
(D) of this section, to any excise tax levied pursuant to section 67783
5739.08 of the Revised Code, and to any excise tax levied pursuant 67784
to section 351.021 of the Revised Code. The legislative authority 67785
of the county shall establish all regulations necessary to provide 67786
for the administration and allocation of the tax. The regulations 67787
may prescribe the time for payment of the tax, and may provide for 67788
the imposition of a penalty or interest, or both, for late 67789
payments, provided that the penalty does not exceed ten per cent 67790
of the amount of tax due, and the rate at which interest accrues 67791
does not exceed the rate per annum prescribed pursuant to section 67792
5703.47 of the Revised Code. All revenues arising from the tax 67793
shall be expended in accordance with section 307.672 of the 67794
Revised Code and this division. The levy of a tax imposed under 67795
this division shall not commence prior to the first day of the 67796
month next following the execution of the cooperative agreement 67797
authorized by section 307.672 of the Revised Code by all parties 67798
to that agreement. The tax shall remain in effect at the rate at 67799
which it is imposed for the period of time determined by the 67800
legislative authority of the county, but not to exceed fifteen 67801
years. 67802

(F) The legislative authority of a county that has levied a 67803
tax under division (E) of this section may, by resolution adopted 67804

within one hundred eighty days after January 4, 2001, by a
majority of the members of the legislative authority, amend the
resolution levying a tax under that division to provide for the
use of the proceeds of that tax, to the extent that it is no
longer needed for its original purpose as determined by the
parties to a cooperative agreement amendment pursuant to division
(D) of section 307.672 of the Revised Code, to pay costs of
acquiring, constructing, renovating, rehabilitating, equipping,
and improving a port authority educational and cultural performing
arts facility, including debt service charges on bonds provided
for in division (B) of section 307.674 of the Revised Code, and to
pay all obligations under any guaranty agreements, reimbursement
agreements, or other credit enhancement agreements described in
division (C) of section 307.674 of the Revised Code. The
resolution may also provide for the extension of the tax at the
same rate for the longer of the period of time determined by the
legislative authority of the county, but not to exceed an
additional twenty-five years, or the period of time required to
pay all debt service charges on bonds provided for in division (B)
of section 307.672 of the Revised Code and on port authority
revenue bonds provided for in division (B) of section 307.674 of
the Revised Code. All revenues arising from the amendment and
extension of the tax shall be expended in accordance with section
307.674 of the Revised Code, this division, and division (E) of
this section.

(G) For purposes of a tax levied by a county, township, or
municipal corporation under this section or section 5739.08 of the
Revised Code, a board of county commissioners, board of township
trustees, or the legislative authority of a municipal corporation
may adopt a resolution or ordinance at any time specifying that
"hotel," as otherwise defined in section 5739.01 of the Revised
Code, includes establishments in which fewer than five rooms are

used for the accommodation of guests. The resolution or ordinance
may apply to a tax imposed pursuant to this section prior to the
adoption of the resolution or ordinance if the resolution or
ordinance so states, but the tax shall not apply to transactions
by which lodging by such an establishment is provided to transient
guests prior to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as
in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section
307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of
this section, the legislative authority of a county with a
population of one million or more according to the most recent
federal decennial census that has levied a tax under division (D)
of this section may, by resolution adopted by a majority of the
members of the legislative authority, provide for the extension of
such levy and may provide that the proceeds of that tax, to the
extent that they are no longer needed for their original purpose
as defined by a cooperative agreement entered into under section
307.671 of the Revised Code, shall be deposited into the county
general revenue fund. The resolution shall provide for the
extension of the tax at a rate not to exceed the rate specified in
division (D) of this section for a period of time determined by
the legislative authority of the county, but not to exceed an
additional forty years.

(3) The legislative authority of a county with a population
of one million or more that has levied a tax under division (A)(1)
of this section may, by resolution adopted by a majority of the
members of the legislative authority, increase the rate of the tax
levied by such county under division (A)(1) of this section to a

rate not to exceed five per cent on transactions by which lodging 67868
by a hotel is or is to be furnished to transient guests. 67869
Notwithstanding any contrary provision of division (A)(1) of this 67870
section, the resolution may provide that all collections resulting 67871
from the rate levied in excess of three per cent, after deducting 67872
the real and actual costs of administering the tax, shall be 67873
deposited in the county general fund. 67874

(4) The legislative authority of a county with a population 67875
of one million or more that has levied a tax under division (A)(1) 67876
of this section may, by resolution adopted on or before August 30, 67877
2004, by a majority of the members of the legislative authority, 67878
provide that all or a portion of the proceeds of the tax levied 67879
under division (A)(1) of this section, after deducting the real 67880
and actual costs of administering the tax and the amounts required 67881
to be returned to townships and municipal corporations with 67882
respect to the first three per cent levied under division (A)(1) 67883
of this section, shall be deposited in the county general fund, 67884
provided that such proceeds shall be used to satisfy any pledges 67885
made in connection with an agreement entered into under section 67886
307.695 of the Revised Code. 67887

(5) No amount collected from a tax levied, extended, or 67888
required to be deposited in the county general fund under division 67889
(H) of this section shall be contributed to a convention 67890
facilities authority, corporation, or other entity created after 67891
July 1, 2003, for the principal purpose of constructing, 67892
improving, expanding, equipping, financing, or operating a 67893
convention center unless the mayor of the municipal corporation in 67894
which the convention center is to be operated by that convention 67895
facilities authority, corporation, or other entity has consented 67896
to the creation of that convention facilities authority, 67897
corporation, or entity. Notwithstanding any contrary provision of 67898
section 351.04 of the Revised Code, if a tax is levied by a county 67899

under division (H) of this section, the board of county
commissioners of that county may determine the manner of
selection, the qualifications, the number, and terms of office of
the members of the board of directors of any convention facilities
authority, corporation, or other entity described in division
(H)(5) of this section.

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(6)(a) No amount collected from a tax levied, extended, or
required to be deposited in the county general fund under division
(H) of this section may be used for any purpose other than paying
the direct and indirect costs of constructing, improving,
expanding, equipping, financing, or operating a convention center
and for the real and actual costs of administering the tax,
unless, prior to the adoption of the resolution of the legislative
authority of the county authorizing the levy, extension, increase,
or deposit, the county and the mayor of the most populous
municipal corporation in that county have entered into an
agreement as to the use of such amounts, provided that such
agreement has been approved by a majority of the mayors of the
other municipal corporations in that county. The agreement shall
provide that the amounts to be used for purposes other than paying
the convention center or administrative costs described in
division (H)(6)(a) of this section be used only for the direct and
indirect costs of capital improvements, including the financing of
capital improvements.

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(b) If the county in which the tax is levied has an
association of mayors and city managers, the approval of that
association of an agreement described in division (H)(6)(a) of
this section shall be considered to be the approval of the
majority of the mayors of the other municipal corporations for
purposes of that division.

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(7) Each year, the auditor of state shall conduct an audit of
the uses of any amounts collected from taxes levied, extended, or

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deposited under division (H) of this section and shall prepare a 67932
report of the auditor of state's findings. The auditor of state 67933
shall submit the report to the legislative authority of the county 67934
that has levied, extended, or deposited the tax, the speaker of 67935
the house of representatives, the president of the senate, and the 67936
leaders of the minority parties of the house of representatives 67937
and the senate. 67938

Sec. 5739.10. (A) In addition to the tax levied by section 67939
5739.02 of the Revised Code and any tax levied pursuant to section 67940
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 67941
the same objectives specified in those sections, there is hereby 67942
levied upon the privilege of engaging in the business of making 67943
retail sales, an excise tax ~~of six per cent on and after July 1,~~ 67944
~~2003, and on and before June 30, 2005, and an excise tax of five~~ 67945
~~per cent on and after July 1, 2005~~ equal to the tax levied by 67946
section 5739.02 of the Revised Code, or, in the case of retail 67947
sales subject to a tax levied pursuant to section 5739.021, 67948
5739.023, or 5739.026 of the Revised Code, a percentage equal to 67949
the aggregate rate of such taxes and the tax levied by section 67950
5739.02 of the Revised Code of the receipts derived from all 67951
retail sales, except those to which the excise tax imposed by 67952
section 5739.02 of the Revised Code is made inapplicable by 67953
division (B) of that section. 67954

(B) For the purpose of this section, no vendor shall be 67955
required to maintain records of sales of food for human 67956
consumption off the premises where sold, and no assessment shall 67957
be made against any vendor for sales of food for human consumption 67958
off the premises where sold, solely because the vendor has no 67959
records of, or has inadequate records of, such sales; provided 67960
that where a vendor does not have adequate records of receipts 67961
from the vendor's sales of food for human consumption on the 67962

premises where sold, the tax commissioner may refuse to accept the
vendor's return and, upon the basis of test checks of the vendor's
business for a representative period, and other information
relating to the sales made by such vendor, determine the
proportion that taxable retail sales bear to all of the vendor's
retail sales. The tax imposed by this section shall be determined
by deducting from the sum representing five and one-half or six
per cent, as applicable under division (A) of this section, or, in
the case of retail sales subject to a tax levied pursuant to
section 5739.021, 5739.023, or 5739.026 of the Revised Code, a
percentage equal to the aggregate rate of such taxes and the tax
levied by section 5739.02 of the Revised Code of the receipts from
such retail sales, the amount of tax paid to the state or to a
clerk of a court of common pleas. The section does not affect any
duty of the vendor under sections 5739.01 to 5739.19 and 5739.26
to 5739.31 of the Revised Code, nor the liability of any consumer
to pay any tax imposed by or pursuant to section 5739.02,
5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.16. (A) ~~No~~ Except as otherwise provided in this
section, no assessment shall be made or issued against a vendor or
consumer for any tax imposed by or pursuant to section 5739.02,
5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code more
than four years after the return date for the period in which the
sale or purchase was made, or more than four years after the
return for such period is filed, whichever is later. A consumer
who provides a fully completed exemption certificate pursuant to
division (B) of section 5739.03 of the Revised Code may be
assessed any tax imposed by or pursuant to section 5739.02,
5739.021, 5739.023, or 5739.026 of the Revised Code that results
from denial of the claimed exemption within the later of a period
otherwise allowed by this section or one year after the date the
certificate was provided. This division does not bar an

assessment:	67995
(1) When the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail sales, which were not returned to the state;	67996 67997 67998
(2) When the vendor assessed failed to file a return as required by section 5739.12 of the Revised Code;	67999 68000
(3) When the vendor or consumer and the commissioner waive in writing the time limitation.	68001 68002
(B) No assessment shall be made or issued against a vendor or consumer for any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code for any period during which there was in full force and effect a rule of the tax commissioner under or by virtue of which the collection or payment of any such tax was not required. This division does not bar an assessment when the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail sales which were not returned to the state.	68003 68004 68005 68006 68007 68008 68009 68010 68011
(C) No assessment shall be made or issued against a person for any tax imposed pursuant to section 5739.101 of the Revised Code more than four years after the return date for the period in which the tax is imposed on the person's gross receipts, or more than four years after the return for such period is filed, whichever is later. This division does not bar an assessment when the person assessed failed to file a return as required under section 5739.102 of the Revised Code, or when the person and the commissioner waive in writing the time limitation.	68012 68013 68014 68015 68016 68017 68018 68019 68020
Sec. 5739.17. (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in	68021 68022 68023 68024

divisions (A)(1), (2), and (3) of this section. 68025

(1) In the dissolution of a partnership by death, the 68026
surviving partner may operate under the license of the partnership 68027
for a period of sixty days. 68028

(2) The heirs or legal representatives of deceased persons, 68029
and receivers and trustees in bankruptcy, appointed by any 68030
competent authority, may operate under the license of the person 68031
so succeeded in possession. 68032

(3) Two or more persons who are not partners may operate a 68033
single place of business under one license. In such case neither 68034
the retirement of any such person from business at that place of 68035
business, nor the entrance of any person, under an existing 68036
arrangement, shall affect the license or require the issuance of a 68037
new license, unless the person retiring from the business is the 68038
individual named on the vendor's license. 68039

Except as otherwise provided in this section, each applicant 68040
for a license shall make out and deliver to the county auditor of 68041
each county in which the applicant desires to engage in business, 68042
upon a blank to be furnished by such auditor for that purpose, a 68043
statement showing the name of the applicant, each place of 68044
business in the county where the applicant will make retail sales, 68045
the nature of the business, and any other information the tax 68046
commissioner reasonably prescribes in the form of a statement 68047
prescribed by the commissioner. 68048

At the time of making the application, the applicant shall 68049
pay into the county treasury a license fee in the sum of 68050
twenty-five dollars for each fixed place of business in the county 68051
that will be the situs of retail sales. Upon receipt of the 68052
application and exhibition of the county treasurer's receipt, 68053
showing the payment of the license fee, the county auditor shall 68054
issue to the applicant a license for each fixed place of business 68055

designated in the application, authorizing the applicant to engage
in business at that location. If a vendor's identity changes, the
vendor shall apply for a new license. If a vendor wishes to move
an existing fixed place of business to a new location within the
same county, the vendor shall obtain a new vendor's license or
submit a request to the tax commissioner to transfer the existing
vendor's license to the new location. When the new location has
been verified as being within the same county, the commissioner
shall authorize the transfer and notify the county auditor of the
change of location. If a vendor wishes to move an existing fixed
place of business to another county, the vendor's license shall
not transfer and the vendor shall obtain a new vendor's license
from the county in which the business is to be located. The form
of the license shall be prescribed by the commissioner. The fees
collected shall be credited to the general fund of the county.

The tax commissioner may establish or participate in a
registration system whereby any vendor may obtain a vendor's
license by submitting to the commissioner a vendor's license
application and a license fee of twenty-five dollars for each
fixed place of business at which the vendor intends to make retail
sales. Under this registration system, the commissioner shall
issue a vendor's license to the applicant on behalf of the county
auditor of the county in which the applicant desires to engage in
business, and shall forward a copy of the application and license
fee to that county. All such license fees received by the
commissioner for the issuance of vendor's licenses shall be
deposited into the vendor's license application fund, which is
hereby created in the state treasury. The commissioner shall
certify to the director of budget and management within ten
business days after the close of a month the license fees to be
transmitted to each county from the vendor's license application
fund for vendor's license applications received by the

commissioner during that month. License fees transmitted to a 68088
county for which payment was not received by the commissioner may 68089
be netted against a future distribution to that county, including 68090
distributions made pursuant to section 5739.21 of the Revised 68091
Code. 68092

A vendor that makes retail sales subject to tax under Chapter 68093
5739. of the Revised Code pursuant to a permit issued by the 68094
division of liquor control shall obtain a vendor's license in the 68095
identical name and for the identical address as shown on the 68096
permit. 68097

Except as otherwise provided in this section, if a vendor has 68098
no fixed place of business and sells from a vehicle, each vehicle 68099
intended to be used within a county constitutes a place of 68100
business for the purpose of this section. 68101

(B) As used in this division, "transient vendor" means any 68102
person who makes sales of tangible personal property from vending 68103
machines located on land owned by others, who leases titled motor 68104
vehicles, titled watercraft, or titled outboard motors, who 68105
effectuates leases that are taxed according to division (A)(2) of 68106
section 5739.02 of the Revised Code, or who, in the usual course 68107
of the person's business, transports inventory, stock of goods, or 68108
similar tangible personal property to a temporary place of 68109
business or temporary exhibition, show, fair, flea market, or 68110
similar event in a county in which the person has no fixed place 68111
of business, for the purpose of making retail sales of such 68112
property. A "temporary place of business" means any public or 68113
quasi-public place including, but not limited to, a hotel, rooming 68114
house, storeroom, building, part of a building, tent, vacant lot, 68115
railroad car, or motor vehicle that is temporarily occupied for 68116
the purpose of making retail sales of goods to the public. A place 68117
of business is not temporary if the same person conducted business 68118
at the place continuously for more than six months or occupied the 68119

premises as the person's permanent residence for more than six 68120
months, or if the person intends it to be a fixed place of 68121
business. 68122

Any transient vendor, in lieu of obtaining a vendor's license 68123
under division (A) of this section for counties in which the 68124
transient vendor has no fixed place of business, may apply to the 68125
tax commissioner, on a form prescribed by the commissioner, for a 68126
transient vendor's license. The transient vendor's license 68127
authorizes the transient vendor to make retail sales in any county 68128
in which the transient vendor does not maintain a fixed place of 68129
business. Any holder of a transient vendor's license shall not be 68130
required to obtain a separate vendor's license from the county 68131
auditor in that county. Upon the commissioner's determination that 68132
an applicant is a transient vendor, the applicant shall pay a 68133
license fee in the amount of twenty-five dollars, at which time 68134
the tax commissioner shall issue the license. The tax commissioner 68135
may require a vendor to be licensed as a transient vendor if, in 68136
the opinion of the commissioner, such licensing is necessary for 68137
the efficient administration of the tax. 68138

Any holder of a valid transient vendor's license may make 68139
retail sales at a temporary place of business or temporary 68140
exhibition, show, fair, flea market, or similar event, held 68141
anywhere in the state without complying with any provision of 68142
section 311.37 of the Revised Code. Any holder of a valid vendor's 68143
license may make retail sales as a transient vendor at a temporary 68144
place of business or temporary exhibition, show, fair, flea 68145
market, or similar event held in any county in which the vendor 68146
maintains a fixed place of business for which the vendor holds a 68147
vendor's license without obtaining a transient vendor's license. 68148

(C) As used in this division, "service vendor" means any 68149
person who, in the usual course of the person's business, sells 68150
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 68151

(k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of the Revised Code. 68152
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Every service vendor shall make application to the tax commissioner for a service vendor's license. Each applicant shall pay a license fee in the amount of twenty-five dollars. Upon the commissioner's determination that an applicant is a service vendor and payment of the fee, the commissioner shall issue the applicant a service vendor's license. 68154
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Only sales described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of the Revised Code may be made under authority of a service vendor's license, and that license authorizes sales to be made at any place in this state. Any service vendor who makes sales of other services or tangible personal property subject to the sales tax also shall be licensed under division (A), (B), or (D) of this section. 68160
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(D) As used in this division, "delivery vendor" means any vendor who engages in one or more of the activities described in divisions (D)(1) to (4) of this section, and who maintains no store, showroom, or similar fixed place of business or other location where merchandise regularly is offered for sale or displayed or shown in catalogs for selection or pick-up by consumers, or where consumers bring goods for repair or other service. 68168
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(1) The vendor makes retail sales of tangible personal property; 68176
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(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors; 68178
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(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 68181
68182

Revised Code; or 68183

(4) The vendor makes retail sales of warranty, maintenance or 68184
service contracts, or similar agreements as described in division 68185
(B)(7) of section 5739.01 of the Revised Code. 68186

A transient vendor or a seller registered pursuant to section 68187
5741.17 of the Revised Code is not a delivery vendor. 68188

Delivery vendors shall apply to the tax commissioner, on a 68189
form prescribed by the commissioner, for a delivery vendor's 68190
license. Each applicant shall pay a license fee of twenty-five 68191
dollars for each delivery vendor's license, to be credited to the 68192
general revenue fund. Upon the commissioner's determination that 68193
the applicant is a delivery vendor, the commissioner shall issue 68194
the license. A delivery vendor's license authorizes retail sales 68195
to be made throughout the state. All sales of the vendor must be 68196
reported under the delivery license. The commissioner may require 68197
a vendor to be licensed as a delivery vendor if, in the opinion of 68198
the commissioner, such licensing is necessary for the efficient 68199
administration of the tax. The commissioner shall not issue a 68200
delivery vendor license to a vendor who holds a license issued 68201
under division (A) of this section. 68202

(E) Any transient vendor who is issued a license pursuant to 68203
this section shall display the license or a copy of it 68204
prominently, in plain view, at every place of business of the 68205
transient vendor. Every owner, organizer, or promoter who operates 68206
a fair, flea market, show, exhibition, convention, or similar 68207
event at which transient vendors are present shall keep a 68208
comprehensive record of all such vendors, listing the vendor's 68209
name, permanent address, vendor's license number, and the type of 68210
goods sold. Such records shall be kept for four years and shall be 68211
open to inspection by the tax commissioner. 68212

Sec. 5739.36. (A) For the purpose of tracking the growth and overall economic impact of the travel and tourism industry in this state, the tax commissioner shall prepare a report summarizing the amount of tax revenue collected during each calendar quarter by vendors in the travel and tourism industry from the tax levied under section 5739.02 of the Revised Code; the taxes levied by counties under sections 5739.021, 5739.026, and 5739.09 of the Revised Code; and the tax levied by transit authorities under section 5739.023 of the Revised Code.

(B) The quarterly reports required under this section shall summarize sales tax collections associated with the travel and tourism industry, which includes, but is not limited to:

(1) Sales made by bars and restaurants;

(2) Transactions by which lodging by a hotel, motel, or bed and breakfast is provided;

(3) Transactions by which campground facilities are provided;

(4) Sales made by truck rental and leasing businesses;

(5) Sales made by passenger car rental and leasing businesses;

(6) Sales made by utility trailer or recreational vehicle rental and leasing businesses;

(7) Transactions by which transportation services are provided;

(8) Sales associated with sporting events;

(9) Sales associated with amusement and theme parks;

(10) Sales associated with museums, concerts, and the performing arts;

(11) Transactions by which boats or canoes are rented;

(12) Transactions by which scenic and sightseeing tours are

<u>provided;</u>	68242
<u>(13) Transactions by which travel planning services are</u>	68243
<u>provided;</u>	68244
<u>(14) Transactions by which physical fitness facility services</u>	68245
<u>or recreation and sports club services are provided;</u>	68246
<u>(15) Sales associated with zoos and botanical gardens;</u>	68247
<u>(16) Sales associated with historical sites;</u>	68248
<u>(17) Sales associated with nature parks and conservatories;</u>	68249
<u>and</u>	68250
<u>(18) Transactions by which motor vehicle parking services are</u>	68251
<u>provided.</u>	68252
<u>(C) In preparing the quarterly reports, the commissioner</u>	68253
<u>shall place sales associated with the travel and tourism industry</u>	68254
<u>into categories, which shall be similar to those set forth in</u>	68255
<u>division (B) of this section and which shall be based upon</u>	68256
<u>industry codes established under the North American industry</u>	68257
<u>classification system. Each report shall itemize the amount of</u>	68258
<u>revenue collected during the quarter with respect to each category</u>	68259
<u>of sales. For each category of sales, the report shall itemize the</u>	68260
<u>amount of revenue attributable to taxes levied by counties under</u>	68261
<u>sections 5739.021, 5739.026, and 5739.09 of the Revised Code and</u>	68262
<u>the amount attributable to the tax levied by transit authorities</u>	68263
<u>under section 5739.023 of the Revised Code. The report also shall</u>	68264
<u>provide cumulative totals across all categories of sales and</u>	68265
<u>across all taxing jurisdictions. The report shall include a</u>	68266
<u>narrative description of how sales tax collections during the</u>	68267
<u>calendar quarter covered by the report differ from sales tax</u>	68268
<u>collections during the immediately preceding calendar quarter.</u>	68269
<u>(D) Beginning January 1, 2006, and on the first day of each</u>	68270
<u>calendar quarter thereafter, the commissioner shall file the</u>	68271

report required under this section summarizing sales tax 68272
collections for the second preceding calendar quarter. The 68273
commissioner shall file a copy of the report with the governor, 68274
the president of the senate, the speaker of the house of 68275
representatives, and the legislative service commission. A copy of 68276
the commissioner's most recent quarterly report shall be made 68277
available to the public through the department of taxation's 68278
official internet web site. 68279

(E) The commissioner shall adopt rules necessary to 68280
administer this section, including rules establishing: 68281

(1) The types of sales that, in addition to those specified 68282
in division (B) of this section, are sufficiently related to the 68283
travel and tourism industry to warrant inclusion in the 68284
commissioner's quarterly reports; and 68285

(2) Categories of sales under division (C) of this section. 68286

Sec. 5739.99. (A) ~~Whoever violates section 5739.26 or 5739.29~~ 68287
~~of the Revised Code shall be fined not less than twenty five nor~~ 68288
~~more than one hundred dollars for a first offense; for each~~ 68289
~~subsequent~~ is guilty of a minor misdemeanor. If the person 68290
previously has been convicted of any offense such under Title LVII 68291
of the Revised Code, the person shall, if a corporation, be fined 68292
not less than one hundred nor more than five hundred dollars, or 68293
if an individual, or a member of a partnership, firm, or 68294
association, be fined not less than twenty five nor more than one 68295
hundred dollars, or imprisoned not more than sixty days, or both 68296
is guilty of a misdemeanor of the third degree. 68297

(B) ~~Whoever violates division (A) of section 5739.30 of the~~ 68299
~~Revised Code shall be fined not less than one hundred nor more~~ 68300
~~than one thousand dollars, or imprisoned not more than sixty days,~~ 68301

~~or both~~ is guilty of a misdemeanor of the third degree. 68302

(C)(1) Whoever violates division (A)(1) of section 5739.31 of 68303
the Revised Code ~~shall be fined not less than twenty five nor more~~ 68304
~~than one hundred dollars~~ is guilty of a minor misdemeanor. If the 68305
~~offender~~ person previously has been convicted once of a violation 68306
~~of division (A)(1) of section 5739.31 of any offense under Title~~ 68307
LVII of the Revised Code, the offender person is guilty of a 68308
misdemeanor of the first degree. If the person previously has been 68309
convicted more than once of any offense under Title LVII of the 68310
Revised Code, the person is guilty of a felony of the fourth fifth 68311
degree. 68312

(2) Whoever violates division (A)(2) of section 5739.31 of 68313
the Revised Code ~~shall be fined not less than one hundred dollars~~ 68314
~~nor more than five hundred dollars, or imprisoned for not more~~ 68315
~~than ten days, or both, for the first offense; for each subsequent~~ 68316
is guilty of a minor misdemeanor. If the person previously has 68317
been convicted once of any offense under Title LVII of the Revised 68318
Code, each such the person shall be fined not less than one 68319
~~thousand dollars nor more than twenty five hundred dollars, or~~ 68320
~~imprisoned not more than thirty days, or both~~ is guilty of a 68321
misdemeanor of the first degree. If the person previously has been 68322
convicted more than once of any offense under Title LVII of the 68323
Revised Code, the person is guilty of a felony of the fourth 68324
degree. The motor vehicles and goods of any person charged with 68325
violating division (A)(2) of section 5739.31 of the Revised Code 68326
may be impounded and held pending the disposition of the charge, 68327
and may be sold at auction by the county sheriff in the manner 68328
prescribed by law to satisfy any fine imposed by this division. 68329

(3) Whoever violates division (B) of section 5739.31 of the 68330
Revised Code is guilty of a misdemeanor of the first degree. If 68331
the person previously has been convicted of any offense under 68332
Title LVII of the Revised Code, the person is guilty of a felony 68333

of the fourth degree. Each day that business is conducted while a vendor's license is suspended constitutes a separate offense.

(D) Except as otherwise provided in this section, whoever violates sections 5739.01 to 5739.31 of the Revised Code, or any lawful rule promulgated by the department of taxation under authority of such sections, ~~shall be fined not less than twenty five nor more than one hundred dollars~~ is guilty of a minor misdemeanor. If the person previously has been convicted of any offense under Title LVII of the Revised Code, the person is guilty of a misdemeanor of the first degree.

(E) Whoever violates section 5739.12 of the Revised Code by failing to remit to the state the tax collected under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code is guilty of a misdemeanor of the first degree if the amount of collected tax the offender failed to remit is less than five hundred dollars and is guilty of a felony of the fourth degree and shall if the amount of collected tax the offender failed to remit is five hundred dollars or more. In either case, the person may suffer the loss of the person's vendor's license as required by section 5739.17 of the Revised Code. A person who suffers the loss of a vendor's license as the result of a conviction under division (E) of this section shall not be eligible for a vendor's license for two years following the conviction.

(F) Whoever violates division (E) of section 5739.17 of the Revised Code is guilty of failure to display a transient vendor's license, a minor misdemeanor. A sheriff or police officer in a municipal corporation may enforce this division. The prosecuting attorney of a county shall inform the tax commissioner of any instance when a complaint is brought against a transient vendor pursuant to this division.

(G) Whoever violates section 5739.103 of the Revised Code ~~shall be fined not less than twenty five nor more than one hundred~~

~~dollars~~ is guilty of a minor misdemeanor. If the ~~offender~~ person 68366
previously has been convicted once of ~~violating that section~~ any 68367
offense under Title LVII of the Revised Code, the ~~offender~~ person 68368
is guilty of a misdemeanor of the first degree. If the person 68369
previously has been convicted more than once of any offense under 68370
Title LVII of the Revised Code, the person is guilty of a felony 68371
of the ~~fourth~~ fifth degree. 68372

(H) The penalties provided in this section are in addition to 68373
any penalties imposed by the tax commissioner under section 68374
5739.133 of the Revised Code. 68375

Sec. 5741.02. (A)(1) For the use of the general revenue fund 68376
of the state, an excise tax is hereby levied on the storage, use, 68377
or other consumption in this state of tangible personal property 68378
or the benefit realized in this state of any service provided. The 68379
tax shall be collected as provided in section 5739.025 of the 68380
Revised Code, provided that on and after July 1, 2003, and on or 68381
before June 30, 2005, the rate of the tax shall be six per cent. 68382
On and after July 1, 2005, the rate of the tax shall be five and 68383
one-half per cent. 68384

(2) In the case of the lease or rental, with a fixed term of 68385
more than thirty days or an indefinite term with a minimum period 68386
of more than thirty days, of any motor vehicles designed by the 68387
manufacturer to carry a load of not more than one ton, watercraft, 68388
outboard motor, or aircraft, or of any tangible personal property, 68389
other than motor vehicles designed by the manufacturer to carry a 68390
load of more than one ton, to be used by the lessee or renter 68391
primarily for business purposes, the tax shall be collected by the 68392
seller at the time the lease or rental is consummated and shall be 68393
calculated by the seller on the basis of the total amount to be 68394
paid by the lessee or renter under the lease or rental agreement. 68395
If the total amount of the consideration for the lease or rental 68396

includes amounts that are not calculated at the time the lease or
rental is executed, the tax shall be calculated and collected by
the seller at the time such amounts are billed to the lessee or
renter. In the case of an open-end lease or rental, the tax shall
be calculated by the seller on the basis of the total amount to be
paid during the initial fixed term of the lease or rental, and for
each subsequent renewal period as it comes due. As used in this
division, "motor vehicle" has the same meaning as in section
4501.01 of the Revised Code, and "watercraft" includes an outdrive
unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in
the case of a transaction, the price of which consists in whole or
part of the lease or rental of tangible personal property, the tax
shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in
this state tangible personal property or realizing in this state
the benefit of any service provided, shall be liable for the tax,
and such liability shall not be extinguished until the tax has
been paid to this state; provided, that the consumer shall be
relieved from further liability for the tax if the tax has been
paid to a seller in accordance with section 5741.04 of the Revised
Code or prepaid by the seller in accordance with section 5741.06
of the Revised Code.

(C) The tax does not apply to the storage, use, or
consumption in this state of the following described tangible
personal property or services, nor to the storage, use, or
consumption or benefit in this state of tangible personal property
or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is
subject to the excise tax imposed by sections 5739.01 to 5739.31
of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, 68428
tangible personal property or services, the acquisition of which, 68429
if made in Ohio, would be a sale not subject to the tax imposed by 68430
sections 5739.01 to 5739.31 of the Revised Code; 68431

(3) Property or services, the storage, use, or other 68432
consumption of or benefit from which this state is prohibited from 68433
taxing by the Constitution of the United States, laws of the 68434
United States, or the Constitution of this state. This exemption 68435
shall not exempt from the application of the tax imposed by this 68436
section the storage, use, or consumption of tangible personal 68437
property that was purchased in interstate commerce, but that has 68438
come to rest in this state, provided that fuel to be used or 68439
transported in carrying on interstate commerce that is stopped 68440
within this state pending transfer from one conveyance to another 68441
is exempt from the excise tax imposed by this section and section 68442
5739.02 of the Revised Code; 68443

(4) Transient use of tangible personal property in this state 68444
by a nonresident tourist or vacationer, or a non-business use 68445
within this state by a nonresident of this state, if the property 68446
so used was purchased outside this state for use outside this 68447
state and is not required to be registered or licensed under the 68448
laws of this state; 68449

(5) Tangible personal property or services rendered, upon 68450
which taxes have been paid to another jurisdiction to the extent 68451
of the amount of the tax paid to such other jurisdiction. Where 68452
the amount of the tax imposed by this section and imposed pursuant 68453
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 68454
exceeds the amount paid to another jurisdiction, the difference 68455
shall be allocated between the tax imposed by this section and any 68456
tax imposed by a county or a transit authority pursuant to section 68457
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 68458
to the respective rates of such taxes. 68459

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or

otherwise consumed in a taxable manner. 68491

(E)(1)(a) If any transaction is claimed to be exempt under 68492
division (E) of section 5739.01 of the Revised Code or under 68493
section 5739.02 of the Revised Code, with the exception of 68494
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 68495
Code, the consumer shall provide to the seller, and the seller 68496
shall obtain from the consumer, a certificate specifying the 68497
reason that the transaction is not subject to the tax. The 68498
certificate shall be in such form, and shall be provided either in 68499
a hard copy form or electronic form, as ~~prescribed by~~ the tax 68500
commissioner prescribes. ~~If the transaction is claimed to be~~ 68501
~~exempt under division (B)(13) of section 5739.02 of the Revised~~ 68502
~~Code, the exemption certificate shall be provided by both the~~ 68503
~~contractor and contractee. Such contractee shall be deemed to be~~ 68504
~~the consumer of all items purchased under the claim of exemption,~~ 68505
~~if it is subsequently determined that the exemption is not~~ 68506
~~properly claimed. The certificate shall be in such form as the tax~~ 68507
~~commissioner by rule prescribes. The seller shall maintain~~ 68508
~~records, including exemption certificates, of all sales on which a~~ 68509
~~consumer has claimed an exemption, and provide them to the tax~~ 68510
~~commissioner on request.~~ 68511

(2)(b) A seller that obtains a fully completed exemption 68512
certificate from a consumer is relieved of liability for 68513
collecting and remitting tax on any sale covered by that 68514
certificate. If it is determined the exemption was improperly 68515
claimed, the consumer shall be liable for any tax due on that sale 68516
under this chapter. Relief under this division from liability does 68517
not apply to any of the following: 68518

(i) A seller that fraudulently fails to collect tax; 68519

(ii) A seller that solicits consumers to participate in the 68520
unlawful claim of an exemption; 68521

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state; 68522
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(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software. 68530
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(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request. 68535
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(3) If no certificate is provided or obtained within the period for filing the return for the period in ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. The failure Failure to have so provided or obtained a certificate shall not preclude a seller or consumer from establishing, within one hundred twenty days of the giving of after the tax commissioner gives written notice by the commissioner of intention intent to levy an assessment, that from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate. 68538
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(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an 68549
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exemption certificate provided by the contractor to the seller. A 68553
contractee that provides a certification under this division shall 68554
be deemed to be the consumer of all items purchased by the 68555
contractor under the claim of exemption, if it is subsequently 68556
determined that the exemption is not properly claimed. The 68557
certification shall be in such form as the tax commissioner 68558
prescribes. 68559

(F) A seller who files a petition for reassessment contesting 68560
the assessment of tax on transactions for which the seller 68561
obtained no valid exemption certificates, and for which the seller 68562
failed to establish that the transactions were not subject to the 68563
tax during the one-hundred-twenty-day period allowed under 68564
division (E) of this section, may present to the tax commissioner 68565
additional evidence to prove that the transactions were exempt. 68566
The seller shall file such evidence within ninety days of the 68567
receipt by the seller of the notice of assessment, except that, 68568
upon application and for reasonable cause, the tax commissioner 68569
may extend the period for submitting such evidence thirty days. 68570

(G) For the purpose of the proper administration of sections 68571
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 68572
of the tax hereby levied, it shall be presumed that any use, 68573
storage, or other consumption of tangible personal property in 68574
this state is subject to the tax until the contrary is 68575
established. 68576

(H) The tax collected by the seller from the consumer under 68577
this chapter is not part of the price, but is a tax collection for 68578
the benefit of the state, and of counties levying an additional 68579
use tax pursuant to section 5741.021 or 5741.023 of the Revised 68580
Code and of transit authorities levying an additional use tax 68581
pursuant to section 5741.022 of the Revised Code. Except for the 68582
discount authorized under section 5741.12 of the Revised Code and 68583
the effects of any rounding pursuant to section 5703.055 of the 68584

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. 68585
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Sec. 5741.16. ~~No~~ (A) Except as provided in division (B) or (C) of this section, no assessment shall be made or issued against a seller or consumer for any tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code more than four years after the return date for the period in which the sale or purchase was made, or more than four years after the return for such period was filed, whichever date is later. ~~This~~ 68588
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(B) A consumer who provides a fully completed exemption certificate pursuant to division (B) of section 5739.03 or division (E) of section 5741.02 of the Revised Code may be assessed any tax imposed by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code that results from denial of the claimed exemption within the later of a period allowed by division (A) of this section or one year after the date the certificate was provided. 68595
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(C) This section does not bar an assessment: 68603

~~(A)~~(1) When the tax commissioner has substantial evidence of amounts of taxes collected by a seller from consumers on purchases, which were not returned to the state by direct remittance; 68604
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~~(B)~~(2) When the person assessed failed to file a return as required by section 5741.12 of the Revised Code; 68608
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~~(C)~~(3) When the seller or consumer and the commissioner ~~waives~~ waive in writing the time limitation. 68610
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Sec. 5741.99. (A) Whoever violates section 5741.19 or 5741.21 of the Revised Code ~~shall be fined not less than twenty five nor~~ 68612
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~~more than one hundred dollars for a first offense; for each~~ 68614
~~subsequent~~ is guilty of a minor misdemeanor. If the person 68615
previously has been convicted once of any offense such under Title 68616
LVII of the Revised Code, the person shall, if a corporation, be 68617
~~fined not less than one hundred nor more than five hundred~~ 68618
~~dollars, or if an individual, or a member of a partnership, firm,~~ 68619
~~or association, be fined not less than twenty five nor more than~~ 68620
~~one hundred dollars, or imprisoned not more than sixty days, or~~ 68621
~~both~~ is guilty of a misdemeanor of the first degree. If the person 68622
previously has been convicted more than once of any offense under 68623
Title LVII of the Revised Code, the person is guilty of a felony 68624
of the fourth degree. 68625

(B) Whoever violates section 5741.22 of the Revised Code 68626
~~shall be fined not more than five hundred dollars~~ is guilty of a 68627
misdemeanor of the third degree. 68628

(C) Whoever violates any provision of sections 5741.01 to 68629
5741.22, ~~inclusive,~~ of the Revised Code, or any lawful rule or 68630
regulation promulgated by the department of taxation under 68631
authority of said sections, for the violation of which no penalty 68632
is provided elsewhere, ~~shall be fined not less than twenty five~~ 68633
~~nor more than one hundred dollars~~ is guilty of a minor 68634
misdemeanor. If the person previously has been convicted of any 68635
offense under Title LVII of the Revised Code, the person is guilty 68636
of a misdemeanor of the first degree. 68637

Sec. 5743.01. As used in this chapter: 68638

(A) "Person" includes individuals, firms, partnerships, 68639
associations, joint-stock companies, corporations, combinations of 68640
individuals of any form, and the state and any of its political 68641
subdivisions. 68642

(B) "Wholesale dealer" includes only those persons: 68643

(1) Who bring in or cause to be brought into this state 68644
unstamped cigarettes purchased directly from the manufacturer, 68645
producer, or importer of cigarettes for sale in this state but 68646
does not include persons who bring in or cause to be brought into 68647
this state cigarettes with respect to which no evidence of tax 68648
payment is required thereon as provided in section 5743.04 of the 68649
Revised Code; or 68650

(2) Who are engaged in the business of selling cigarettes or 68651
tobacco products to others for the purpose of resale. 68652

"Wholesale dealer" does not include any cigarette 68653
manufacturer, export warehouse proprietor, or importer with a 68654
valid permit under 26 U.S.C. 5713 if that person sells cigarettes 68655
in this state only to wholesale dealers holding valid and current 68656
licenses under section 5743.15 of the Revised Code or to an export 68657
warehouse proprietor or another manufacturer. 68658

(C) "Retail dealer" includes: 68659

(1) In reference to dealers in cigarettes, every person other 68660
than a wholesale dealer engaged in the business of selling 68661
cigarettes in this state, irrespective regardless of whether the 68662
person is located in this state or elsewhere, and regardless of 68663
quantity, amount, or number of sales; 68664

(2) In reference to dealers in tobacco products, any person 68665
in this state engaged in the business of selling tobacco products 68666
to ultimate consumers in this state, regardless of quantity, 68667
amount, or number of sales. 68668

(D) "Sale" includes exchange, barter, gift, offer for sale, 68669
and distribution, and ~~excludes~~ includes transactions in interstate 68670
or foreign commerce. 68671

(E) "Cigarettes" includes any roll for smoking made wholly or 68672
in part of tobacco, irrespective of size or shape, and whether or 68673

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.

(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.

(G) "Stamp" includes an impression made by a metering device
as provided for in section 5743.04 of the Revised Code.

(H) "Storage" includes any keeping or retention of cigarettes
or tobacco products for use or consumption in this state.

(I) "Use" includes the exercise of any right or power
incidental to the ownership of cigarettes or tobacco products.

(J) "Tobacco product" means any product made from tobacco,
other than cigarettes, that is made for smoking or chewing, or
both, and snuff.

(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.

(L) "Distributor" means:

(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 68704
the tax imposed by section 5743.51 of the Revised Code; 68705

(2) Any wholesale dealer located in the state who receives 68706
tobacco products from a manufacturer, or who receives tobacco 68707
products on which the tax imposed by this chapter has not been 68708
paid; 68709

(3) Any wholesale dealer located outside the state who sells, 68710
barters, exchanges, or distributes tobacco products to a wholesale 68711
or retail dealer in the state; or 68712

(4) Any retail dealer who receives tobacco products on which 68713
the tax has not or will not be paid by another distributor, 68714
including a retail dealer that has filed a signed statement with a 68715
manufacturer in which the retail dealer agrees to pay and be 68716
liable for the tax that would otherwise be imposed on the 68717
manufacturer by section 5743.51 of the Revised Code. 68718

(M) "Taxpayer" means any person liable for the tax imposed by 68719
section 5743.51, 5743.62, or 5743.63 of the Revised Code. 68720

(N) "Seller" means any person located outside this state 68721
engaged in the business of selling tobacco products to consumers 68722
for storage, use, or other consumption in this state. 68723

(O) "Manufacturer" means any person who manufactures and 68724
sells cigarettes or tobacco products. 68725

(P) "Importer" means any person that imports is authorized, 68726
under a valid permit issued under Section 5713 of the Internal 68727
Revenue Code, to import finished cigarettes into the United 68728
States, either directly or indirectly. 68729

Sec. 5743.02. To provide revenues for the general revenue 68730
fund, an excise tax on sales of cigarettes is hereby levied at the 68731
rate of ~~twenty-seven and one-half~~ sixty-two and one-half mills on 68732
each cigarette. 68733

Only one sale of the same article shall be used in computing 68734
the amount of tax due. 68735

The treasurer of state shall place to the credit of the tax 68736
refund fund created by section 5703.052 of the Revised Code, out 68737
of receipts from the tax levied by this section, amounts equal to 68738
the refunds certified by the tax commissioner pursuant to section 68739
5743.05 of the Revised Code. The balance of taxes collected under 68740
such section, after the credits to the tax refund fund, shall be 68741
paid into the general revenue fund. 68742

Sec. 5743.03. (A) Except as provided in section 5743.04 of 68743
the Revised Code, the taxes imposed under sections 5743.02, 68744
5743.024, and 5743.026 of the Revised Code shall be paid by the 68745
purchase of stamps. A stamp shall be affixed to each package of an 68746
aggregate denomination not less than the amount of the tax upon 68747
the contents thereof. The stamp, so affixed, shall be prima-facie 68748
evidence of payment of the tax. ~~Except~~ 68749

Except as is provided in the rules prescribed by the tax 68750
commissioner under authority of sections 5743.01 to 5743.20 of the 68751
Revised Code, and unless ~~such~~ tax stamps have been previously 68752
affixed, they shall be so affixed by each wholesale dealer, and 68753
canceled by writing or stamping across the face thereof the number 68754
assigned to such wholesale dealer by the tax commissioner for that 68755
purpose, prior to the delivery of any cigarettes to any person in 68756
this state, or in the case of a tax levied pursuant to section 68757
5743.024 or 5743.026 of the Revised Code, prior to the delivery of 68758
cigarettes to any person in the county in which the tax is levied. 68759

(B) Except as provided in the rules prescribed by the 68760
commissioner under authority of sections 5743.01 to 5743.20 of the 68761
Revised Code, ~~and unless such stamps have been previously affixed,~~ 68762
each retail dealer ~~shall~~, within twenty-four hours after the 68763
receipt of any cigarettes at the retail dealer's place of business 68764

~~and prior to the delivery thereof, shall inspect the cigarettes to~~ 68765
~~ensure that tax stamps are affixed. The inspection shall be~~ 68766
~~completed before the cigarettes are delivered~~ to any person in 68767
this state, or, in the case of a tax levied pursuant to section 68768
5743.024 or 5743.026 of the Revised Code ~~prior to the delivery~~ 68769
~~thereof, before the cigarettes are delivered~~ to any person in the 68770
county in which the tax is levied, ~~so affix such stamps and cancel~~ 68771
~~same by writing or stamping across the face thereof the number~~ 68772
~~assigned to such retail dealer by the commissioner for that~~ 68773
~~purpose.~~ 68774

(C) Whenever any cigarettes are found in the place of 68775
business of any retail dealer without proper tax stamps affixed 68776
thereto and canceled, it is presumed that such cigarettes are kept 68777
therein in violation of sections 5743.01 to 5743.20 of the Revised 68778
Code. 68779

(D) Each wholesale dealer ~~and each retail dealer~~ who 68780
purchases cigarettes without proper tax stamps affixed thereto 68781
shall, on or before the thirty-first day of the month following 68782
the close of each semiannual period, which period shall end on the 68783
thirtieth day of June and the thirty-first day of December of each 68784
year, make and file a return of the preceding semiannual period, 68785
on such form as is prescribed by the tax commissioner, showing the 68786
dealer's entire purchases and sales of cigarettes and stamps or 68787
impressions for such semiannual period and accurate inventories as 68788
of the beginning and end of each semiannual period of cigarettes, 68789
stamped or unstamped; cigarette tax stamps affixed or unaffixed 68790
and unused meter impressions; and such other information as the 68791
commissioner finds necessary to the proper administration of 68792
sections 5743.01 to 5743.20 of the Revised Code. The commissioner 68793
may extend the time for making and filing returns and may remit 68794
all or any part of amounts of penalties that may become due under 68795
sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or~~ 68796

~~retail~~ dealer shall deliver the return together with a remittance 68797
of the tax deficiency reported thereon to the treasurer of state. 68798
The treasurer of state shall stamp or otherwise mark on the return 68799
the date it was received and shall also show thereon by stamp or 68800
otherwise a payment or nonpayment of the deficiency shown by the 68801
return. Thereafter, the treasurer of state shall immediately 68802
transmit all returns filed under this section to the commissioner. 68803

(E) Any wholesale ~~or retail~~ dealer who fails to file a return 68804
under this section and the rules of the commissioner, other than a 68805
report required pursuant to division (F) of this section, may be 68806
required, for each day the dealer so fails, to forfeit and pay 68807
into the state treasury the sum of one dollar as revenue arising 68808
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 68809
Code and such sum may be collected by assessment in the manner 68810
provided in section 5743.081 of the Revised Code. If the 68811
commissioner finds it necessary in order to insure the payment of 68812
the tax imposed by sections 5743.01 to 5743.20 of the Revised 68813
Code, the commissioner may require returns and payments to be made 68814
other than semiannually. The returns shall be signed by the 68815
wholesale ~~or retail~~ dealer or an authorized agent thereof. 68816

(F) Each person required to file a tax return under section 68817
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 68818
the commissioner the quantity of all cigarettes and roll-your-own 68819
cigarette tobacco sold in Ohio for each brand not covered by the 68820
tobacco master settlement agreement for which the person is liable 68821
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 68822
the Revised Code. 68823

As used in this division, "tobacco master settlement 68824
agreement" has the same meaning as in section 183.01 of the 68825
Revised Code. 68826

(G) The report required by division (F) of this section shall 68827
be made on a form prescribed by the commissioner and shall be 68828

filed not later than the last day of each month for the previous
month, except that if the commissioner determines that the
quantity reported by a person does not warrant monthly reporting,
the commissioner may authorize reporting at less frequent
intervals. The commissioner may assess a penalty of not more than
two hundred fifty dollars for each month or portion thereof that a
person fails to timely file a required report, and such sum may be
collected by assessment in the manner provided in section 5743.081
of the Revised Code. All money collected under this division shall
be considered as revenue arising from the taxes imposed by
sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.031. (A) A wholesale dealer may affix stamps only
to packages of cigarettes that the dealer received directly from a
manufacturer or importer of cigarettes that possesses a valid and
current license under section 5743.15 of the Revised Code, or to
packages of cigarettes that the dealer received from another
wholesale dealer that possesses a valid and current license under
section 5743.15 of the Revised Code, provided that the tax
commissioner has authorized the sale of the cigarettes between
those wholesale dealers and that the wholesale dealer that sells
the cigarettes received them directly from a manufacturer or
importer of cigarettes that possesses a valid and current license
under section 5743.15 of the Revised Code.

(B) Only a wholesale dealer that possesses a valid and
current license under section 5743.15 of the Revised Code may
purchase or obtain tax stamps. A wholesale dealer may not sell or
provide such stamps to any other wholesale dealer or any other
person.

(C) Any person shipping unstamped packages of cigarettes into
this state to a person other than a wholesale dealer licensed
under section 5743.15 of the Revised Code shall, before such

shipment, file notice of the shipment with the tax commissioner. 68860
Any person that transports unstamped packages of cigarettes into 68861
or within this state shall carry in the vehicle used to convey the 68862
shipment invoices or equivalent documentation of the shipment for 68863
all cigarettes in the shipment. The invoices or other 68864
documentation shall show the true name and address of the 68865
consignor or seller, the true name and address of the consignee or 68866
purchaser, and the quantity of the cigarettes being transported. 68867
This division does not apply to any common or contract carrier 68868
transporting cigarettes through this state to another location 68869
under a proper bill of lading or freight bill that states the 68870
quantity, source, and destination of the cigarettes. 68871

Sec. 5743.05. All stamps provided for by section 5743.03 of 68872
the Revised Code, when procured by the tax commissioner, shall be 68873
immediately delivered to the treasurer of state, who shall execute 68874
a receipt therefor showing the number and aggregate face value of 68875
each denomination received by the treasurer of state and any other 68876
information that the commissioner requires to enforce the 68877
collection and distribution of all taxes imposed under section 68878
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 68879
to the commissioner. The treasurer of state shall sell the stamps 68880
and, on the fifth day of each month, make a report showing all 68881
sales made during the preceding month, with the names of 68882
purchasers, the number of each denomination, the aggregate face 68883
value purchased by each, and any other information as the 68884
commissioner requires to enforce the collection and distribution 68885
of all taxes imposed under section 5743.024 of the Revised Code, 68886
and deliver it to the commissioner. The treasurer of state shall 68887
be accountable for all stamps received and unsold. The stamps 68888
shall be sold and accounted for at their face value, except the 68889
commissioner shall, by rule certified to the treasurer of state, 68890
authorize the sale of stamps and meter impressions to wholesale or 68891

retail dealers in this state, or to wholesale dealers outside this 68892
state, at a discount of not less than one and eight-tenths per 68893
cent or more than ten per cent of their face value, as a 68894
commission for affixing and canceling the stamps or meter 68895
impressions. 68896

The commissioner, by rule certified to the treasurer of 68897
state, shall authorize the delivery of stamps and meter 68898
impressions to wholesale ~~and retail~~ dealers in this state and to 68899
wholesale dealers outside this state on credit. If such a dealer 68900
has not been in good credit standing with this state for five 68901
consecutive years preceding the purchase, the tax commissioner 68902
shall require the dealer to file with the commissioner a bond to 68903
the state in the amount and in the form prescribed by the 68904
commissioner, with surety to the satisfaction of the commissioner, 68905
conditioned on payment to the treasurer of state within thirty 68906
days for stamps or meter impressions delivered within that time. 68907
If such a dealer has been in good credit standing with this state 68908
for five consecutive years preceding the purchase, the tax 68909
commissioner shall not require that the dealer file such a bond 68910
but shall require payment for the stamps and meter impressions 68911
within thirty days after purchase of the stamps and meter 68912
impressions. Stamps and meter impressions sold to a dealer not 68913
required to file a bond shall be sold at face value. The maximum 68914
amount that may be sold on credit to a dealer not required to file 68915
a bond shall equal one hundred ten per cent of the dealer's 68916
average monthly purchases over the preceding calendar year. The 68917
maximum amount shall be adjusted to reflect any changes in the tax 68918
rate and may be adjusted, upon application to the tax commissioner 68919
by the dealer, to reflect changes in the business operations of 68920
the dealer. The maximum amount shall be applicable to the period 68921
of July through April. Payment by a dealer not required to file a 68922
bond shall be remitted by electronic funds transfer as prescribed 68923
by section 5743.051 of the Revised Code. If a dealer not required 68924

to file a bond fails to make the payment in full within the 68925
thirty-day period, the treasurer of state shall not thereafter 68926
sell stamps or meter impressions to that dealer until the dealer 68927
pays the outstanding amount, including penalty and interest on 68928
that amount as prescribed in this chapter, and the commissioner 68929
thereafter may require the dealer to file a bond until the dealer 68930
is restored to good standing. The commissioner shall limit 68931
delivery of stamps and meter impressions on credit to the period 68932
running from the first day of July of the fiscal year until the 68933
first day of the following May. Any discount allowed as a 68934
commission for affixing and canceling stamps or meter impressions 68935
shall be allowed with respect to sales of stamps and meter 68936
impressions on credit. 68937

The treasurer of state shall redeem and pay for any 68938
destroyed, unused, or spoiled tax stamps and any unused meter 68939
impressions at their net value, and shall refund to wholesale 68940
dealers the net amount of state and county taxes paid erroneously 68941
or paid on cigarettes that have been sold in interstate or foreign 68942
commerce or that have become unsalable, and the net amount of 68943
county taxes that were paid on cigarettes that have been sold at 68944
retail or for retail sale outside a taxing county. 68945

An application for a refund of tax shall be filed with the 68946
tax commissioner, on the form prescribed by the commissioner for 68947
that purpose, within three years from the date the tax stamps are 68948
destroyed or spoiled, from the date of the erroneous payment, or 68949
from the date that cigarettes on which taxes have been paid have 68950
been sold in interstate or foreign commerce or have become 68951
unsalable. 68952

On the filing of the application, the commissioner shall 68953
determine the amount of refund to which the applicant is entitled, 68954
payable from receipts of the state tax, and, if applicable, 68955
payable from receipts of a county tax. If the amount is less than 68956

that claimed, the commissioner shall certify the amount to the
director of budget and management and treasurer of state for
payment from the tax refund fund created by section 5703.052 of
the Revised Code. If the amount is less than that claimed, the
commissioner shall proceed in accordance with section 5703.70 of
the Revised Code.

If a refund is granted for payment of an illegal or erroneous
assessment issued by the department, the refund shall include
interest on the amount of the refund from the date of the
overpayment. The interest shall be computed at the rate per annum
prescribed by section 5703.47 of the Revised Code.

Sec. 5743.071. ~~Each wholesale dealer and each retail dealer~~
Every person shall maintain complete and accurate records of all
purchases and sales of cigarettes, and shall procure and retain
all invoices, bills of lading, and other documents relating to the
purchases and sales of cigarettes, except that no retail dealer
shall be required to issue or maintain invoices relating to ~~his~~
the retail dealer's sales of cigarettes. The invoices or documents
shall be maintained for each place of business and shall show the
name and address of the other party to the purchase or sale and
shall show the quantity of the cigarettes so sold or purchased.

The records and documents shall be open during business hours
to the inspection of the tax commissioner, and shall be preserved
for a period of three years, unless the commissioner, in writing,
consents to their destruction within that period, or by order
requires that they be kept for a longer period. With the tax
commissioner's consent, a person with multiple places of business
may keep centralized records but shall transmit duplicates of the
invoices or documents to each place of business within seventy-two
hours after the tax commissioner or the tax commissioner's
designee requests access to the records.

Public access to reports submitted by license holders shall 68988
be provided under the procedures prescribed under division (B) of 68989
section 149.43 of the Revised Code. Information regarding 68990
quantities of cigarettes by brand style shall not be made 68991
available to any person other than the tax commissioner or the tax 68992
commissioner's designee, the United States secretary of the 68993
treasury or the secretary's designee, or law enforcement 68994
officials. 68995

Sec. 5743.072. Each manufacturer and each importer shipping 68996
cigarettes into or within this state shall file a monthly report 68997
with the tax commissioner in accordance with rules adopted by the 68998
tax commissioner under Chapter 119. of the Revised Code. 68999

Sec. 5743.08. Whenever the tax commissioner discovers any 69000
cigarettes which are being shipped, or which have been shipped, or 69001
transported in violation of section 2927.023 of the Revised Code, 69002
or discovers cigarettes, subject to the taxes levied under section 69003
5743.02, 5743.024, or 5743.026 of the Revised Code, and upon which 69004
the taxes have not been paid or that are held for sale or 69005
distribution in violation of any other provision of this chapter, 69006
the commissioner may seize and take possession of such cigarettes, 69007
which shall thereupon be forfeited to the state, and the 69008
commissioner may, within a reasonable time thereafter sell or 69009
destroy the forfeited cigarettes. From the proceeds of the sale, 69010
the tax commissioner shall pay the costs incurred in such 69011
proceedings, and any proceeds remaining after the costs are paid 69012
shall be considered as revenue arising from the tax; provided that 69013
the seizure and sale shall not be deemed to If the commissioner 69014
sells cigarettes under this section, the commissioner shall use 69015
proceeds from the sale to pay the costs incurred in the 69016
proceedings. Any proceeds remaining after all costs have been paid 69017
shall be considered revenue arising from the taxes levied under 69018

this chapter. Seizure and sale shall not be deemed to relieve any 69019
person from the fine or imprisonment provided for violation of 69020
sections 5743.01 to 5743.20 of the Revised Code. ~~The~~ A sale shall 69021
be made where it is most convenient and economical. The tax 69022
commissioner may order the destruction of the forfeited cigarettes 69023
if the quantity or quality of the cigarettes is not sufficient to 69024
warrant their sale. 69025

Sec. 5743.10. No ~~retail dealer~~ person shall have in ~~his~~ the 69026
person's possession ~~packages~~ packs of cigarettes not bearing the 69027
stamps required to be affixed thereto as required by Chapter 5743. 69028
of the Revised Code. 69029

Sec. 5743.111. No person shall possess ~~packages~~ packs of 69030
cigarettes not bearing the stamps required by Chapter 5743. of the 69031
Revised Code, or bearing stamps that have been affixed in 69032
violation of section 5743.21 of the Revised Code, when the 69033
~~wholesale value~~ total number of the cigarettes exceeds ~~sixty~~ 69034
~~dollars~~ one thousand two hundred. 69035

Sec. 5743.112. (A) No person shall prepare for shipment, 69036
ship, transport, deliver, prepare for distribution, or distribute 69037
cigarettes, or otherwise engage or participate in the wholesale or 69038
retail business of trafficking in cigarettes, with the intent to 69039
avoid payment of the tax imposed by this chapter, when the 69040
~~wholesale value~~ total number of ~~such~~ cigarettes in the aggregate 69041
exceeds ~~sixty dollars~~ one thousand two hundred during any 69042
twelve-month period. 69043

(B) Any vending machine containing cigarettes which do not 69044
have affixed the stamps or impressions provided for by sections 69045
5743.03 and 5743.04 of the Revised Code shall be seized and 69046
forfeited to the state in accordance with section 2933.43 of the 69047
Revised Code. Forfeiture shall not affect the rights of a holder 69048

of a valid lien.

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(C) A vehicle that is seized as contraband under section 2933.43 of the Revised Code because of its use in violation of this chapter is subject to the procedures set forth in section 2933.43 of the Revised Code.

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Sec. 5743.14. (A) The tax commissioner ~~may inspect any place where cigarettes subject to the tax levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code are sold or stored.~~

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~~(B) or an agent of the tax commissioner may enter and inspect the facilities and records of a person selling cigarettes or other tobacco products. Such entrance and inspection requires a properly issued search warrant if conducted outside the normal business hours of the person, but does not require a search warrant if conducted during the normal business hours of the person. No person shall prevent or hinder the tax commissioner or an agent of the tax commissioner from making a full inspection of any place where cigarettes subject to the tax levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code are sold or stored, or prevent or hinder the full inspection of invoices, books, records, or papers required to be kept by sections 5743.01 to 5743.20 of the Revised Code carrying out the authority granted under this division.~~

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~~(B) If a peace officer as defined in section 2935.01 of the Revised Code knows or has reasonable cause to believe that a motor vehicle is transporting cigarettes or other tobacco products in violation of this chapter or section 2927.023 of the Revised Code, the peace officer may stop the vehicle and inspect the vehicle to determine the presence of such cigarettes or other tobacco products.~~

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Sec. 5743.15. (A) No person shall engage in this state in the

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wholesale or retail business of trafficking in cigarettes ~~within~~ 69079
~~this state or in the business of a manufacturer or importer of~~ 69080
~~cigarettes~~ without having a license to ~~do so~~ conduct each such 69081
activity issued by a county auditor under division (B) of this 69082
section or the tax commissioner under division (E) of this 69083
section, except that on dissolution of a partnership by death, the 69084
surviving partner may operate under the license of the partnership 69085
until expiration of the license, and the heirs or legal 69086
representatives of deceased persons, and receivers and trustees in 69087
bankruptcy appointed by any competent authority, may operate under 69088
the license of the person succeeded in possession by such heir, 69089
representative, receiver, or trustee in bankruptcy. 69090

(B) Each applicant for a license to engage in the wholesale 69091
or retail business of trafficking in cigarettes under this 69092
section, annually, on or before the fourth Monday of May, shall 69093
make and deliver to the county auditor of the county in which ~~he~~ 69094
the applicant desires to engage in the wholesale or retail 69095
business of trafficking in cigarettes, upon a blank furnished by 69096
such auditor for that purpose, a statement showing the name of the 69097
applicant, each place in the county where the applicant's business 69098
is conducted, the nature of the business, and any other 69099
information the tax commissioner requires in the form of statement 69100
prescribed by ~~him~~ the commissioner. If the applicant is a firm, 69101
partnership, or association other than a corporation, the 69102
application shall state the name and address of each of its 69103
members. If the applicant is a corporation, the application shall 69104
state the name and address of each of its officers. At the time of 69105
making the application required by this section, every person 69106
desiring to engage in the wholesale business of trafficking in 69107
cigarettes shall pay into the county treasury a license tax in the 69108
sum of two hundred dollars, or if desiring to engage in the retail 69109
business of trafficking in cigarettes, a license tax in the sum of 69110
thirty dollars for each of the first five places where ~~he~~ the 69111

person proposes to carry on such business and twenty-five dollars 69112
for each additional place. Each place of business shall be deemed 69113
such space, under lease or license to, or under the control of, or 69114
under the supervision of the applicant, as is contained in one or 69115
more contiguous, adjacent, or adjoining buildings constituting an 69116
industrial plant or a place of business operated by, or under the 69117
control of, one person, or under one roof and connected by doors, 69118
halls, stairways, or elevators, which space may contain any number 69119
of points at which cigarettes are offered for sale, provided that 69120
each additional point at which cigarettes are offered for sale 69121
shall be listed in the application. 69122

Upon receipt of the application ~~required by this section~~ and 69123
exhibition of the county treasurer's receipt showing the payment 69124
of the tax, the county auditor shall issue to the applicant a 69125
license for each place of business designated in the application, 69126
authorizing the applicant to engage in such business at such place 69127
for one year commencing on the fourth Monday of May. Companies 69128
operating club or dining cars or other cars upon which cigarettes 69129
are sold shall obtain licenses at railroad terminals within the 69130
state, under such rules as are prescribed by the commissioner. The 69131
form of the license shall be prescribed by the commissioner. A 69132
duplicate license may be obtained from the county auditor upon 69133
payment of a fifty cent fee if the original license is lost, 69134
destroyed, or defaced. When an application is filed after the 69135
fourth Monday of May, the license tax required to be paid shall be 69136
proportioned in amount to the remainder of the license year, 69137
except that it shall not be less than one fifth of the whole 69138
amount in any one year. 69139

The holder of a wholesale or retail dealer's cigarette 69140
license may transfer the license to a place of business within the 69141
same county other than that designated on the license or may 69142
assign the license to another person for use in the same county on 69143

condition that the licensee or assignee, whichever is applicable, 69144
make application to the county auditor therefor, upon forms 69145
approved by the commissioner and the payment of a fee of one 69146
dollar into the county treasury. 69147

~~(B)~~(C)(1) The wholesale cigarette license tax revenue 69148
collected under this section shall be distributed as follows: 69149

(a) Thirty-seven and one-half per cent shall be paid upon the 69150
warrant of the county auditor into the treasury of the municipal 69151
corporation or township in which the place of business for which 69152
the tax revenue was received is located; 69153

(b) Fifteen per cent shall be credited to the general fund of 69154
the county; 69155

(c) Forty-seven and one-half per cent shall be paid into the 69156
cigarette tax enforcement fund created by division (C) of this 69157
section. 69158

(2) The revenue collected from the thirty dollar tax imposed 69159
upon the first five places of business of a person engaged in the 69160
retail business of trafficking in cigarettes shall be distributed 69161
as follows: 69162

(a) Sixty-two and one-half per cent shall be paid upon the 69163
warrant of the county auditor into the treasury of the municipal 69164
corporation or township in which the places of business for which 69165
the tax revenue was received are located; 69166

(b) Twenty-two and one-half per cent shall be credited to the 69167
general fund of the county; 69168

(c) Fifteen per cent shall be paid into the cigarette tax 69169
enforcement fund created by division (C) of this section. 69170

(3) The remainder of the revenues and fines collected under 69171
this section and the penal laws relating to cigarettes shall be 69172
distributed as follows: 69173

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

~~(C)~~(D) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code.

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.

(E)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the fourth Monday of May, make and deliver to the tax commissioner, upon a blank furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

Upon receipt of the application, the commissioner shall issue

to the applicant a license authorizing the applicant to engage in 69205
the business of manufacturer or importer, whichever the case may 69206
be, for one year commencing on the fourth Monday of May. 69207

(2) The issuing of a license under division (E) of this 69208
section to a manufacturer does not excuse a manufacturer from the 69209
certification process required under section 1346.05 of the 69210
Revised Code. A license issued under division (E) of this section 69211
to a manufacturer who is not listed on the directory required 69212
under section 1346.05 of the Revised Code shall cease to be valid 69213
and shall be revoked by the commissioner as provided in section 69214
5743.18 of the Revised Code. 69215

(3) The tax commissioner may adopt rules necessary to 69216
administer division (E) of this section. 69217

Sec. 5743.16. On or before the first Monday of June, 69218
annually, each county auditor shall certify to the tax 69219
commissioner a list showing the names of all persons licensed in 69220
~~his~~ the auditor's county to engage in the business of trafficking 69221
in cigarettes, and such other information as to each, available 69222
from the records in the office of the auditor, as the commissioner 69223
prescribes. As such licenses are issued during the year, the 69224
auditor shall certify like lists and additions thereto to the 69225
commissioner. The commissioner shall keep an alphabetical index of 69226
such licenses certified to ~~him~~ the commissioner, and shall update 69227
the index of valid license holders on a regular basis. 69228

Sec. 5743.18. Upon notice and hearing in accordance with 69229
sections 119.01 to 119.13 of the Revised Code, the tax 69230
commissioner may revoke any manufacturer, importer, wholesale, or 69231
retail cigarette license for violation of sections 5743.01 to 69232
5743.21 of the Revised Code. A In the case of a wholesale or 69233
retail cigarette license, a certified copy of the order revoking 69234

such license shall be transmitted to the county auditor of the 69235
county in which the license was issued. In the case of a license 69236
issued to a manufacturer, the commissioner shall immediately 69237
revoke any such license upon the manufacturer's removal from the 69238
directory under section 1346.05 of the Revised Code. 69239

Sec. 5743.19. No person shall engage in business as a 69240
manufacturer or importer, or in the wholesale or retail business 69241
of trafficking in cigarettes, without having a license therefor, 69242
as required by section 5743.15 of the Revised Code. 69243

Sec. 5743.20. No person shall sell any cigarettes both as a 69244
retail dealer and as a wholesale dealer at the same place of 69245
business. ~~No wholesale dealer shall sell cigarettes to any person~~ 69246
~~in this state other than to a licensed retail dealer; and no~~ No 69247
person other than a licensed wholesale dealer shall sell 69248
cigarettes to a licensed retail dealer. No retail dealer shall 69249
purchase cigarettes from any person other than a licensed 69250
wholesale dealer. 69251

Subject to section 5743.031 of the Revised Code, a licensed 69252
wholesale dealer may not sell cigarettes to any person in this 69253
state other than a licensed retail dealer, except a licensed 69254
wholesale dealer may sell cigarettes to another licensed wholesale 69255
dealer if the tax commissioner has authorized the sale of the 69256
cigarettes between those wholesale dealers and the wholesale 69257
dealer that sells the cigarettes received them directly from a 69258
licensed manufacturer or licensed importer. 69259

The tax commissioner shall adopt rules governing sales of 69260
cigarettes between licensed wholesale dealers, including rules 69261
establishing criteria for authorizing such sales. 69262

No manufacturer or importer shall sell cigarettes to any 69263
person in this state other than to a licensed wholesale dealer or 69264

licensed importer. No importer shall purchase cigarettes from any 69265
person other than a licensed manufacturer or licensed importer. 69266

A retail dealer may purchase tobacco products only from a 69267
licensed distributor. A licensed distributor may sell tobacco 69268
products only to a retail dealer, except a licensed distributor 69269
may sell tobacco products to another licensed distributor if the 69270
tax commissioner has authorized the sale of the tobacco products 69271
between those distributors and the distributor that sells the 69272
tobacco products received them directly from a manufacturer or 69273
importer of tobacco products 69274

The tax commissioner may adopt rules governing sales of 69275
tobacco products between licensed distributors, including rules 69276
establishing criteria for authorizing such sales. 69277

As used in this section, "licensed" means the manufacturer, 69278
importer, wholesale dealer, retail dealer, or distributor holds a 69279
current and valid license issued under section 5743.15 or 5743.61 69280
of the Revised Code. 69281

Sec. 5743.32. To provide revenue for the general revenue fund 69282
of the state, an excise tax is hereby levied on the use, 69283
consumption, or storage for consumption of cigarettes by consumers 69284
in this state at the rate of ~~twenty-seven and one-half~~ sixty-two 69285
and one-half mills on each cigarette. The tax shall not apply if 69286
the tax levied by section 5743.02 of the Revised Code has been 69287
paid. 69288

The money received into the state treasury from the excise 69289
tax levied by this section shall be credited to the general 69290
revenue fund. 69291

Sec. 5743.33. Every person who has acquired cigarettes for 69292
use, storage, or other consumption subject to the tax levied under 69293
section 5743.32, 5743.323, or 5743.324 of the Revised Code, shall, 69294

on or before the fifteenth day of the month following receipt of 69295
such cigarettes, file with the tax commissioner a return showing 69296
the amount of cigarettes acquired, together with remittance of the 69297
tax thereon. No such person shall transport within this state, 69298
~~cigarettes that have a wholesale value in excess of sixty dollars~~ 69299
more than two thousand four hundred cigarettes, unless that person 69300
has obtained consent to transport the cigarettes from the 69301
department of taxation prior to such transportation. Such consent 69302
shall not be required if the applicable taxes levied under 69303
sections 5743.02, 5743.024, and 5743.026 of the Revised Code have 69304
been paid. Application for the consent shall be in the form 69305
prescribed by the tax commissioner. 69306

Every person transporting such cigarettes shall possess the 69307
consent while transporting or possessing the cigarettes within 69308
this state and shall produce the consent upon request of any law 69309
enforcement officer or authorized agent of the tax commissioner. 69310

Any person transporting such cigarettes without the consent 69311
required by this section, shall be subject to the provisions of 69312
this chapter, including the applicable taxes imposed by sections 69313
5743.02, 5743.024, and 5743.026 of the Revised Code. 69314

Sec. 5743.71. If a person seeks to obtain cigarettes that are 69315
legal for sale in this state under section 1346.05 of the Revised 69316
Code or other tobacco products, and such cigarettes or other 69317
tobacco products are not reasonably available to that person at a 69318
retail location in this state, the person may apply to the tax 69319
commissioner for consent for consumer shipment. The consent for 69320
consumer shipment must be obtained prior to the purchase of the 69321
cigarettes or other tobacco products. 69322

The consent for consumer shipment shall be filed with the 69323
commissioner on a form prescribed by the commissioner showing 69324
purchase of the cigarettes or other tobacco products as consented 69325

to, and shall be accompanied by the purchaser's proof of age and 69326
any other information required by the commissioner. 69327

Sec. 5743.99. (A) Whoever violates section 5743.10, 5743.11, 69328
or 5743.12 or division (C) of section 5743.54 of the Revised Code 69329
is guilty of a misdemeanor of the first degree. If the ~~offender~~ 69330
person previously has been ~~previously~~ convicted of ~~an~~ any offense 69331
under this division, violation Title LVII of the Revised Code, the 69332
person is guilty of a felony of the fourth degree. 69333

(B) Whoever violates section 5743.111, 5743.112, 5743.13, 69334
5743.14, 5743.59, or 5743.60 of the Revised Code is guilty of a 69335
felony of the fourth degree. If the ~~offender~~ person previously has 69336
been ~~previously~~ convicted of ~~an~~ any offense under ~~this division,~~ 69337
~~violation Title LVII of the Revised Code, the person is guilty of~~ 69338
a felony of the second degree. 69339

(C) Whoever violates section 5743.19 of the Revised Code is 69340
guilty of a misdemeanor of the fourth degree. If the person 69341
previously has been convicted once of any offense under Title LVII 69342
of the Revised Code, the person is guilty of a misdemeanor of the 69343
first degree. If the person previously has been convicted more 69344
than once of any offense under Title LVII of the Revised Code, the 69345
person is guilty of a felony of the fourth degree. 69346

(D) Whoever violates section 5743.41 or 5743.42 of the 69347
Revised Code is guilty of a misdemeanor of the fourth degree. If 69348
the ~~offender~~ person previously has been ~~previously~~ convicted of ~~an~~ 69349
any offense under ~~this division, violation Title LVII of the~~ 69350
Revised Code, the person is guilty of a misdemeanor of the third 69351
degree. 69352

~~(D)~~(E) Whoever violates section 5743.21 of the Revised Code 69353
is guilty of a misdemeanor of the first degree. If the ~~offender~~ 69354
person previously has been ~~previously~~ convicted of ~~an~~ any offense 69355

under ~~this division~~, violation Title LVII of the Revised Code, the 69356
person is guilty of a felony of the fifth degree. 69357

~~(E)~~(F) Whoever violates division (F) of section 5743.03 of 69358
the Revised Code is guilty of a misdemeanor of the fourth degree. 69359

~~(F)~~(G) Whoever violates any provision of this chapter, or any 69360
rule promulgated by the tax commissioner under authority of this 69361
chapter, for the violation of which no penalty is provided 69362
elsewhere, is guilty of a minor misdemeanor. If the person 69363
previously has been convicted of any offense under Title LVII of 69364
the Revised Code, the person is guilty of a misdemeanor of the 69365
~~fourth~~ first degree. 69366

~~(G)~~(H) In addition to any other penalty imposed upon a person 69367
convicted of a violation of section 5743.112 or 5743.60 of the 69368
Revised Code who was the operator of a motor vehicle used in the 69369
violation, the court shall suspend for not less than thirty days 69370
or more than three years the offender's driver's license, 69371
commercial driver's license, temporary instruction permit, 69372
probationary license, or nonresident operating privilege. The 69373
court shall send a copy of its suspension order and determination 69374
to the registrar of motor vehicles, and the registrar, pursuant to 69375
the order and determination, shall impose a suspension of the same 69376
duration. No judge shall suspend the first thirty days of 69377
suspension of an offender's license, permit, or privilege required 69378
by this division. 69379

Sec. 5747.01. Except as otherwise expressly provided or 69380
clearly appearing from the context, any term used in this chapter 69381
that is not otherwise defined in this section has the same meaning 69382
as when used in a comparable context in the laws of the United 69383
States relating to federal income taxes or if not used in a 69384
comparable context in those laws, has the same meaning as in 69385
section 5733.40 of the Revised Code. Any reference in this chapter 69386

to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(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:

(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.

(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.

(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 gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(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.

(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 69417
income of the trust for the three taxable years preceding the 69418
taxable year in which the distribution is made to the extent that 69419
the portion was not included in the trust's taxable income for any 69420
of the trust's taxable years beginning in 2002,~~2003~~, or 2004 69421
thereafter. "Undistributed net income of a trust" means the 69422
taxable income of the trust increased by (a)(i) the additions to 69423
adjusted gross income required under division (A) of this section 69424
and (ii) the personal exemptions allowed to the trust pursuant to 69425
section 642(b) of the Internal Revenue Code, and decreased by 69426
(b)(i) the deductions to adjusted gross income required under 69427
division (A) of this section, (ii) the amount of federal income 69428
taxes attributable to such income, and (iii) the amount of taxable 69429
income that has been included in the adjusted gross income of a 69430
beneficiary by reason of a prior accumulation distribution. Any 69431
undistributed net income included in the adjusted gross income of 69432
a beneficiary shall reduce the undistributed net income of the 69433
trust commencing with the earliest years of the accumulation 69434
period. 69435

(7) Deduct the amount of wages and salaries, if any, not 69436
otherwise allowable as a deduction but that would have been 69437
allowable as a deduction in computing federal adjusted gross 69438
income for the taxable year, had the targeted jobs credit allowed 69439
and determined under sections 38, 51, and 52 of the Internal 69440
Revenue Code not been in effect. 69441

(8) Deduct any interest or interest equivalent on public 69442
obligations and purchase obligations to the extent that the 69443
interest or interest equivalent is included in federal adjusted 69444
gross income. 69445

(9) Add any loss or deduct any gain resulting from the sale, 69446
exchange, or other disposition of public obligations to the extent 69447
that the loss has been deducted or the gain has been included in 69448

computing federal adjusted gross income. 69449

(10) Deduct or add amounts, as provided under section 5747.70 69450
of the Revised Code, related to contributions to variable college 69451
savings program accounts made or tuition ~~credits~~ units purchased 69452
pursuant to Chapter 3334. of the Revised Code. 69453

(11)(a) Deduct, to the extent not otherwise allowable as a 69454
deduction or exclusion in computing federal or Ohio adjusted gross 69455
income for the taxable year, the amount the taxpayer paid during 69456
the taxable year for medical care insurance and qualified 69457
long-term care insurance for the taxpayer, the taxpayer's spouse, 69458
and dependents. No deduction for medical care insurance under 69459
division (A)(11) of this section shall be allowed either to any 69460
taxpayer who is eligible to participate in any subsidized health 69461
plan maintained by any employer of the taxpayer or of the 69462
taxpayer's spouse, or to any taxpayer who is entitled to, or on 69463
application would be entitled to, benefits under part A of Title 69464
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 69465
301, as amended. For the purposes of division (A)(11)(a) of this 69466
section, "subsidized health plan" means a health plan for which 69467
the employer pays any portion of the plan's cost. The deduction 69468
allowed under division (A)(11)(a) of this section shall be the net 69469
of any related premium refunds, related premium reimbursements, or 69470
related insurance premium dividends received during the taxable 69471
year. 69472

(b) Deduct, to the extent not otherwise deducted or excluded 69473
in computing federal or Ohio adjusted gross income during the 69474
taxable year, the amount the taxpayer paid during the taxable 69475
year, not compensated for by any insurance or otherwise, for 69476
medical care of the taxpayer, the taxpayer's spouse, and 69477
dependents, to the extent the expenses exceed seven and one-half 69478
per cent of the taxpayer's federal adjusted gross income. 69479

(c) For purposes of division (A)(11) of this section, 69480
"medical care" has the meaning given in section 213 of the 69481
Internal Revenue Code, subject to the special rules, limitations, 69482
and exclusions set forth therein, and "qualified long-term care" 69483
has the same meaning given in section 7702(B)(b) of the Internal 69484
Revenue Code. 69485

(12)(a) Deduct any amount included in federal adjusted gross 69486
income solely because the amount represents a reimbursement or 69487
refund of expenses that in any year the taxpayer had deducted as 69488
an itemized deduction pursuant to section 63 of the Internal 69489
Revenue Code and applicable United States department of the 69490
treasury regulations. The deduction otherwise allowed under 69491
division (A)(12)(a) of this section shall be reduced to the extent 69492
the reimbursement is attributable to an amount the taxpayer 69493
deducted under this section in any taxable year. 69494

(b) Add any amount not otherwise included in Ohio adjusted 69495
gross income for any taxable year to the extent that the amount is 69496
attributable to the recovery during the taxable year of any amount 69497
deducted or excluded in computing federal or Ohio adjusted gross 69498
income in any taxable year. 69499

(13) Deduct any portion of the deduction described in section 69500
1341(a)(2) of the Internal Revenue Code, for repaying previously 69501
reported income received under a claim of right, that meets both 69502
of the following requirements: 69503

(a) It is allowable for repayment of an item that was 69504
included in the taxpayer's adjusted gross income for a prior 69505
taxable year and did not qualify for a credit under division (A) 69506
or (B) of section 5747.05 of the Revised Code for that year; 69507

(b) It does not otherwise reduce the taxpayer's adjusted 69508
gross income for the current or any other taxable year. 69509

(14) Deduct an amount equal to the deposits made to, and net 69510

investment earnings of, a medical savings account during the 69511
taxable year, in accordance with section 3924.66 of the Revised 69512
Code. The deduction allowed by division (A)(14) of this section 69513
does not apply to medical savings account deposits and earnings 69514
otherwise deducted or excluded for the current or any other 69515
taxable year from the taxpayer's federal adjusted gross income. 69516

(15)(a) Add an amount equal to the funds withdrawn from a 69517
medical savings account during the taxable year, and the net 69518
investment earnings on those funds, when the funds withdrawn were 69519
used for any purpose other than to reimburse an account holder 69520
for, or to pay, eligible medical expenses, in accordance with 69521
section 3924.66 of the Revised Code; 69522

(b) Add the amounts distributed from a medical savings 69523
account under division (A)(2) of section 3924.68 of the Revised 69524
Code during the taxable year. 69525

(16) Add any amount claimed as a credit under section 69526
5747.059 of the Revised Code to the extent that such amount 69527
satisfies either of the following: 69528

(a) The amount was deducted or excluded from the computation 69529
of the taxpayer's federal adjusted gross income as required to be 69530
reported for the taxpayer's taxable year under the Internal 69531
Revenue Code; 69532

(b) The amount resulted in a reduction of the taxpayer's 69533
federal adjusted gross income as required to be reported for any 69534
of the taxpayer's taxable years under the Internal Revenue Code. 69535

(17) Deduct the amount contributed by the taxpayer to an 69536
individual development account program established by a county 69537
department of job and family services pursuant to sections 329.11 69538
to 329.14 of the Revised Code for the purpose of matching funds 69539
deposited by program participants. On request of the tax 69540
commissioner, the taxpayer shall provide any information that, in 69541

the tax commissioner's opinion, is necessary to establish the 69542
amount deducted under division (A)(17) of this section. 69543

(18) Beginning in taxable year 2001 but not for any taxable 69544
year beginning after December 31, 2005, if the taxpayer is married 69545
and files a joint return and the combined federal adjusted gross 69546
income of the taxpayer and the taxpayer's spouse for the taxable 69547
year does not exceed one hundred thousand dollars, or if the 69548
taxpayer is single and has a federal adjusted gross income for the 69549
taxable year not exceeding fifty thousand dollars, deduct amounts 69550
paid during the taxable year for qualified tuition and fees paid 69551
to an eligible institution for the taxpayer, the taxpayer's 69552
spouse, or any dependent of the taxpayer, who is a resident of 69553
this state and is enrolled in or attending a program that 69554
culminates in a degree or diploma at an eligible institution. The 69555
deduction may be claimed only to the extent that qualified tuition 69556
and fees are not otherwise deducted or excluded for any taxable 69557
year from federal or Ohio adjusted gross income. The deduction may 69558
not be claimed for educational expenses for which the taxpayer 69559
claims a credit under section 5747.27 of the Revised Code. 69560

(19) Add any reimbursement received during the taxable year 69561
of any amount the taxpayer deducted under division (A)(18) of this 69562
section in any previous taxable year to the extent the amount is 69563
not otherwise included in Ohio adjusted gross income. 69564

(20)(a)(i) Add five-sixths of the amount of depreciation 69565
expense allowed by subsection (k) of section 168 of the Internal 69566
Revenue Code, including the taxpayer's proportionate or 69567
distributive share of the amount of depreciation expense allowed 69568
by that subsection to a pass-through entity in which the taxpayer 69569
has a direct or indirect ownership interest. 69570

(ii) Add five-sixths of the amount of qualifying section 179 69571
depreciation expense, including a person's proportionate or 69572

distributive share of the amount of qualifying section 179 69573
depreciation expense allowed to any pass-through entity in which 69574
the person has a direct or indirect ownership. For the purposes of 69575
this division, "qualifying section 179 depreciation expense" means 69576
the difference between (I) the amount of depreciation expense 69577
directly or indirectly allowed to the taxpayer under section 179 69578
of the Internal Revenue Code, and (II) the amount of depreciation 69579
expense directly or indirectly allowed to the taxpayer under 69580
section 179 of the Internal Revenue Code as that section existed 69581
on December 31, 2002. 69582

The tax commissioner, under procedures established by the 69583
commissioner, may waive the add-backs related to a pass-through 69584
entity if the taxpayer owns, directly or indirectly, less than 69585
five per cent of the pass-through entity. 69586

(b) Nothing in division (A)(20) of this section shall be 69587
construed to adjust or modify the adjusted basis of any asset. 69588

(c) To the extent the add-back required under division 69589
(A)(20)(a) of this section is attributable to property generating 69590
nonbusiness income or loss allocated under section 5747.20 of the 69591
Revised Code, the add-back shall be situated to the same location 69592
as the nonbusiness income or loss generated by the property for 69593
the purpose of determining the credit under division (A) of 69594
section 5747.05 of the Revised Code. Otherwise, the add-back shall 69595
be apportioned, subject to one or more of the four alternative 69596
methods of apportionment enumerated in section 5747.21 of the 69597
Revised Code. 69598

(d) For the purposes of division (A) of this section, net 69599
operating loss carryback and carryforward shall not include 69600
five-sixths of the allowance of any net operating loss deduction 69601
carryback or carryforward to the taxable year to the extent such 69602
loss resulted from depreciation allowed by section 168(k) of the 69603

Internal Revenue Code and by the qualifying section 179
depreciation expense amount. 69604
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(21)(a) If the taxpayer was required to add an amount under 69606
division (A)(20)(a) of this section for a taxable year, deduct 69607
one-fifth of the amount so added for each of the five succeeding 69608
taxable years. 69609

(b) If the amount deducted under division (A)(21)(a) of this 69610
section is attributable to an add-back allocated under division 69611
(A)(20)(c) of this section, the amount deducted shall be sitused 69612
to the same location. Otherwise, the add-back shall be apportioned 69613
using the apportionment factors for the taxable year in which the 69614
deduction is taken, subject to one or more of the four alternative 69615
methods of apportionment enumerated in section 5747.21 of the 69616
Revised Code. 69617

(c) No deduction is available under division (A)(21)(a) of 69618
this section with regard to any depreciation allowed by section 69619
168(k) of the Internal Revenue Code and by the qualifying section 69620
179 depreciation expense amount to the extent that such 69621
depreciation resulted in or increased a federal net operating loss 69622
carryback or carryforward to a taxable year to which division 69623
(A)(20)(d) of this section does not apply. 69624

(B) "Business income" means income, including gain or loss, 69625
arising from transactions, activities, and sources in the regular 69626
course of a trade or business and includes income, gain, or loss 69627
from real property, tangible property, and intangible property if 69628
the acquisition, rental, management, and disposition of the 69629
property constitute integral parts of the regular course of a 69630
trade or business operation. "Business income" includes income, 69631
including gain or loss, from a partial or complete liquidation of 69632
a business, including, but not limited to, gain or loss from the 69633
sale or other disposition of goodwill. 69634

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that 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
at that time, net of any related liabilities, from sources
enumerated in division (I)(3)(a) of this section. The denominator
of the qualifying ratio is the fair market value of all the
trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a
revised qualifying ratio shall be computed. The numerator of the
revised qualifying ratio is the sum of (1) the fair market value
of the trust's assets immediately prior to the subsequent
transfer, net of any related liabilities, multiplied by the
qualifying ratio last computed without regard to the subsequent
transfer, and (2) the fair market value of the subsequently
transferred assets at the time transferred, net of any related
liabilities, from sources enumerated in division (I)(3)(a) of this
section. The denominator of the revised qualifying ratio is the

fair market value of all the trust's assets immediately after the 69727
subsequent transfer, net of any related liabilities. 69728

(iii) Whether a transfer to the trust is by or from any of 69729
the sources enumerated in division (I)(3)(a) of this section shall 69730
be ascertained without regard to the domicile of the trust's 69731
beneficiaries. 69732

(e) For the purposes of division (I)(3)(a)(i) of this 69733
section: 69734

(i) A trust is described in division (I)(3)(e)(i) of this 69735
section if the trust is a testamentary trust and the testator of 69736
that testamentary trust was domiciled in this state at the time of 69737
the testator's death for purposes of the taxes levied under 69738
Chapter 5731. of the Revised Code. 69739

(ii) A trust is described in division (I)(3)(e)(ii) of this 69740
section if the transfer is a qualifying transfer described in any 69741
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 69742
irrevocable inter vivos trust, and at least one of the trust's 69743
qualifying beneficiaries is domiciled in this state for purposes 69744
of this chapter during all or some portion of the trust's current 69745
taxable year. 69746

(f) For the purposes of division (I)(3)(e)(ii) of this 69747
section, a "qualifying transfer" is a transfer of assets, net of 69748
any related liabilities, directly or indirectly to a trust, if the 69749
transfer is described in any of the following: 69750

(i) The transfer is made to a trust, created by the decedent 69751
before the decedent's death and while the decedent was domiciled 69752
in this state for the purposes of this chapter, and, prior to the 69753
death of the decedent, the trust became irrevocable while the 69754
decedent was domiciled in this state for the purposes of this 69755
chapter. 69756

(ii) The transfer is made to a trust to which the decedent, 69757
prior to the decedent's death, had directly or indirectly 69758
transferred assets, net of any related liabilities, while the 69759
decedent was domiciled in this state for the purposes of this 69760
chapter, and prior to the death of the decedent the trust became 69761
irrevocable while the decedent was domiciled in this state for the 69762
purposes of this chapter. 69763

(iii) The transfer is made on account of a contractual 69764
relationship existing directly or indirectly between the 69765
transferor and either the decedent or the estate of the decedent 69766
at any time prior to the date of the decedent's death, and the 69767
decedent was domiciled in this state at the time of death for 69768
purposes of the taxes levied under Chapter 5731. of the Revised 69769
Code. 69770

(iv) The transfer is made to a trust on account of a 69771
contractual relationship existing directly or indirectly between 69772
the transferor and another person who at the time of the 69773
decedent's death was domiciled in this state for purposes of this 69774
chapter. 69775

(v) The transfer is made to a trust on account of the will of 69776
a testator. 69777

(vi) The transfer is made to a trust created by or caused to 69778
be created by a court, and the trust was directly or indirectly 69779
created in connection with or as a result of the death of an 69780
individual who, for purposes of the taxes levied under Chapter 69781
5731. of the Revised Code, was domiciled in this state at the time 69782
of the individual's death. 69783

(g) The tax commissioner may adopt rules to ascertain the 69784
part of a trust residing in this state. 69785

(J) "Nonresident" means an individual or estate that is not a 69786
resident. An individual who is a resident for only part of a 69787

taxable year is a nonresident for the remainder of that taxable year. 69788
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(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. 69790
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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. 69792
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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. 69796
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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. 69800
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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. 69804
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(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. 69809
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(Q) As used in sections 5747.50 to 5747.55 of the Revised Code: 69814
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(1) "Subdivision" means any county, municipal corporation, park district, or township. 69816
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(2) "Essential local government purposes" includes all 69818
functions that any subdivision is required by general law to 69819
exercise, including like functions that are exercised under a 69820
charter adopted pursuant to the Ohio Constitution. 69821

(R) "Overpayment" means any amount already paid that exceeds 69822
the figure determined to be the correct amount of the tax. 69823

(S) "Taxable income" or "Ohio taxable income" applies only to 69824
estates and trusts, and means federal taxable income, as defined 69825
and used in the Internal Revenue Code, adjusted as follows: 69826

(1) Add interest or dividends, net of ordinary, necessary, 69827
and reasonable expenses not deducted in computing federal taxable 69828
income, on obligations or securities of any state or of any 69829
political subdivision or authority of any state, other than this 69830
state and its subdivisions and authorities, but only to the extent 69831
that such net amount is not otherwise includible in Ohio taxable 69832
income and is described in either division (S)(1)(a) or (b) of 69833
this section: 69834

(a) The net amount is not attributable to the S portion of an 69835
electing small business trust and has not been distributed to 69836
beneficiaries for the taxable year; 69837

(b) The net amount is attributable to the S portion of an 69838
electing small business trust for the taxable year. 69839

(2) Add interest or dividends, net of ordinary, necessary, 69840
and reasonable expenses not deducted in computing federal taxable 69841
income, on obligations of any authority, commission, 69842
instrumentality, territory, or possession of the United States to 69843
the extent that the interest or dividends are exempt from federal 69844
income taxes but not from state income taxes, but only to the 69845
extent that such net amount is not otherwise includible in Ohio 69846
taxable income and is described in either division (S)(1)(a) or 69847
(b) of this section; 69848

- (3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code; 69849
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- (4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section; 69851
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- (5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year; 69859
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- (6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year; 69868
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- (7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year; 69874
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- (8) Except in the case of the final return of an estate, add 69879

any amount deducted by the taxpayer on both its Ohio estate tax 69880
return pursuant to section 5731.14 of the Revised Code, and on its 69881
federal income tax return in determining federal taxable income; 69882

(9)(a) Deduct any amount included in federal taxable income 69883
solely because the amount represents a reimbursement or refund of 69884
expenses that in a previous year the decedent had deducted as an 69885
itemized deduction pursuant to section 63 of the Internal Revenue 69886
Code and applicable treasury regulations. The deduction otherwise 69887
allowed under division (S)(9)(a) of this section shall be reduced 69888
to the extent the reimbursement is attributable to an amount the 69889
taxpayer or decedent deducted under this section in any taxable 69890
year. 69891

(b) Add any amount not otherwise included in Ohio taxable 69892
income for any taxable year to the extent that the amount is 69893
attributable to the recovery during the taxable year of any amount 69894
deducted or excluded in computing federal or Ohio taxable income 69895
in any taxable year, but only to the extent such amount has not 69896
been distributed to beneficiaries for the taxable year. 69897

(10) Deduct any portion of the deduction described in section 69898
1341(a)(2) of the Internal Revenue Code, for repaying previously 69899
reported income received under a claim of right, that meets both 69900
of the following requirements: 69901

(a) It is allowable for repayment of an item that was 69902
included in the taxpayer's taxable income or the decedent's 69903
adjusted gross income for a prior taxable year and did not qualify 69904
for a credit under division (A) or (B) of section 5747.05 of the 69905
Revised Code for that year. 69906

(b) It does not otherwise reduce the taxpayer's taxable 69907
income or the decedent's adjusted gross income for the current or 69908
any other taxable year. 69909

(11) Add any amount claimed as a credit under section 69910

5747.059 of the Revised Code to the extent that the amount 69911
satisfies either of the following: 69912

(a) The amount was deducted or excluded from the computation 69913
of the taxpayer's federal taxable income as required to be 69914
reported for the taxpayer's taxable year under the Internal 69915
Revenue Code; 69916

(b) The amount resulted in a reduction in the taxpayer's 69917
federal taxable income as required to be reported for any of the 69918
taxpayer's taxable years under the Internal Revenue Code. 69919

(12) Deduct any amount, net of related expenses deducted in 69920
computing federal taxable income, that a trust is required to 69921
report as farm income on its federal income tax return, but only 69922
if the assets of the trust include at least ten acres of land 69923
satisfying the definition of "land devoted exclusively to 69924
agricultural use" under section 5713.30 of the Revised Code, 69925
regardless of whether the land is valued for tax purposes as such 69926
land under sections 5713.30 to 5713.38 of the Revised Code. If the 69927
trust is a pass-through entity investor, section 5747.231 of the 69928
Revised Code applies in ascertaining if the trust is eligible to 69929
claim the deduction provided by division (S)(12) of this section 69930
in connection with the pass-through entity's farm income. 69931

Except for farm income attributable to the S portion of an 69932
electing small business trust, the deduction provided by division 69933
(S)(12) of this section is allowed only to the extent that the 69934
trust has not distributed such farm income. Division (S)(12) of 69935
this section applies only to taxable years of a trust beginning in 69936
2002, ~~2003~~, or 2004 thereafter. 69937

(13) Add the net amount of income described in section 641(c) 69938
of the Internal Revenue Code to the extent that amount is not 69939
included in federal taxable income. 69940

(14) Add or deduct the amount the taxpayer would be required 69941

to add or deduct under division (A)(20) or (21) of this section if 69942
the taxpayer's Ohio taxable income were computed in the same 69943
manner as an individual's Ohio adjusted gross income is computed 69944
under this section. In the case of a trust, division (S)(14) of 69945
this section applies only to any of the trust's taxable years 69946
beginning in 2002,~~2003~~, or 2004 thereafter. 69947

(T) "School district income" and "school district income tax" 69948
have the same meanings as in section 5748.01 of the Revised Code. 69949

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 69950
of this section, "public obligations," "purchase obligations," and 69951
"interest or interest equivalent" have the same meanings as in 69952
section 5709.76 of the Revised Code. 69953

(V) "Limited liability company" means any limited liability 69954
company formed under Chapter 1705. of the Revised Code or under 69955
the laws of any other state. 69956

(W) "Pass-through entity investor" means any person who, 69957
during any portion of a taxable year of a pass-through entity, is 69958
a partner, member, shareholder, or equity investor in that 69959
pass-through entity. 69960

(X) "Banking day" has the same meaning as in section 1304.01 69961
of the Revised Code. 69962

(Y) "Month" means a calendar month. 69963

(Z) "Quarter" means the first three months, the second three 69964
months, the third three months, or the last three months of the 69965
taxpayer's taxable year. 69966

(AA)(1) "Eligible institution" means a state university or 69967
state institution of higher education as defined in section 69968
3345.011 of the Revised Code, or a private, nonprofit college, 69969
university, or other post-secondary institution located in this 69970
state that possesses a certificate of authorization issued by the 69971

Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code. 69972
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(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include: 69976
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(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program; 69986
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(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; 69989
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(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program. 69992
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(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. 69995
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(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: 69998
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(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.

(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.

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.

(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 extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the

numerator of which is the sum of the book value of the qualifying
investee's physical assets in this state on the last day of the
qualifying investee's fiscal or calendar year ending immediately
prior to the day on which the trust recognizes the qualifying
trust amount, and the denominator of which is the sum of the book
value of the qualifying investee's total physical assets
everywhere on the last day of the qualifying investee's fiscal or
calendar year ending immediately prior to the day on which the
trust recognizes the qualifying trust amount. If, for a taxable
year, the trust recognizes a qualifying trust amount with respect
to more than one qualifying investee, the amount described in
division (BB)(4)(b) of this section shall equal the sum of the
products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is
a resident as ascertained in accordance with division (I)(3)(d) of
this section, its modified nonbusiness income.

(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 70064
purpose of computing the fraction described in division (BB)(4)(b) 70065
of this section, all of the following apply: 70066

(i) If the qualifying investee is a member of a qualifying 70067
controlled group on the last day of the qualifying investee's 70068
fiscal or calendar year ending immediately prior to the date on 70069
which the trust recognizes the gain or loss, then "qualifying 70070
investee" includes all persons in the qualifying controlled group 70071
on such last day. 70072

(ii) If the qualifying investee, or if the qualifying 70073
investee and any members of the qualifying controlled group of 70074
which the qualifying investee is a member on the last day of the 70075
qualifying investee's fiscal or calendar year ending immediately 70076
prior to the date on which the trust recognizes the gain or loss, 70077
separately or cumulatively own, directly or indirectly, on the 70078
last day of the qualifying investee's fiscal or calendar year 70079
ending immediately prior to the date on which the trust recognizes 70080
the qualifying trust amount, more than fifty per cent of the 70081
equity of a pass-through entity, then the qualifying investee and 70082
the other members are deemed to own the proportionate share of the 70083
pass-through entity's physical assets which the pass-through 70084
entity directly or indirectly owns on the last day of the 70085
pass-through entity's calendar or fiscal year ending within or 70086
with the last day of the qualifying investee's fiscal or calendar 70087
year ending immediately prior to the date on which the trust 70088
recognizes the qualifying trust amount. 70089

(iii) For the purposes of division (BB)(5)(a)(iii) of this 70090
section, "upper level pass-through entity" means a pass-through 70091
entity directly or indirectly owning any equity of another 70092
pass-through entity, and "lower level pass-through entity" means 70093
that other pass-through entity. 70094

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes 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. 70127
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(ii) Such gain or loss constitutes nonbusiness income. 70130

(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. 70131
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(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code. 70135
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(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 70137
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~~(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 meaning as in section 5733.40 (1) For the purposes of division (EE) of this section:~~ 70139
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(a) "Qualifying person" means any person other than a qualifying corporation. 70145
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(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following: 70147
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(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year; 70150
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(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year 70154
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ending within, or on the last day of, the investor's taxable year. 70157

(2)(a) For the purposes of this chapter, unless expressly 70158
stated otherwise, no qualifying person indirectly owns any asset 70159
directly or indirectly owned by any qualifying corporation. 70160

(b) For the purposes of this chapter, unless expressly stated 70161
otherwise, no qualifying corporation indirectly owns any asset 70162
directly or indirectly owned by any other qualifying corporation 70163
unless on the first day of the tax year the two corporations 70164
satisfy the ownership and control requirements of division (A) of 70165
section 5733.052 of the Revised Code. 70166

Sec. 5747.02. (A) For the purpose of providing revenue for 70167
the support of schools and local government functions, to provide 70168
relief to property taxpayers, to provide revenue for the general 70169
revenue fund, and to meet the expenses of administering the tax 70170
levied by this chapter, there is hereby levied on every 70171
individual, trust, and estate residing in or earning or receiving 70172
income in this state, on every individual, trust, and estate 70173
earning or receiving lottery winnings, prizes, or awards pursuant 70174
to Chapter 3770. of the Revised Code, and on every individual, 70175
trust, and estate otherwise having nexus with or in this state 70176
under the Constitution of the United States, an annual tax 70177
measured in the case of individuals by Ohio adjusted gross income 70178
less an exemption for the taxpayer, the taxpayer's spouse, and 70179
each dependent as provided in section 5747.025 of the Revised 70180
Code; measured in the case of trusts by modified Ohio taxable 70181
income under division (D) of this section; and measured in the 70182
case of estates by Ohio taxable income. The tax imposed by this 70183
section on the balance thus obtained is hereby levied as follows: 70184

(1) For taxable years beginning in 2004: 70185

OHIO ADJUSTED GROSS INCOME LESS 70186

EXEMPTIONS (INDIVIDUALS)

OR		70187
MODIFIED OHIO		70188
TAXABLE INCOME (TRUSTS)		70189
OR		70190
OHIO TAXABLE INCOME (ESTATES)	TAX	70191
\$5,000 or less	.743%	70192
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	70193
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	70194
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000	70195
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	70196
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	70197
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	70198
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	70199
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	70200
<u>(2) For taxable years beginning in 2005:</u>		70201
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		70202
<u>EXEMPTIONS (INDIVIDUALS)</u>		
OR		70203
MODIFIED OHIO		70204
TAXABLE INCOME (TRUSTS)		70205
OR		70206
OHIO TAXABLE INCOME (ESTATES)	TAX	70207
<u>\$5,000 or less</u>	<u>.712%</u>	70208
<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>	70209

<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>	70210
<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>	70211
<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>	70212
<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>	70213
<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>	70214
<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>	70215
<u>More than \$200,000</u>	<u>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</u>	70216
<u>(3) For taxable years beginning in 2006:</u>		70217
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		70218
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		70219
<u>MODIFIED OHIO</u>		70220
<u>TAXABLE INCOME (TRUSTS)</u>		70221
<u>OR</u>		70222
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	70223
<u>\$5,000 or less</u>	<u>.681%</u>	70224
<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>	70225
<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>	70226
<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>	70227
<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>	70228
<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>	70229

<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>	70230
<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>	70231
<u>More than \$200,000</u>	<u>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</u>	70232
<u>(4) For taxable years beginning in 2007:</u>		70233
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		70234
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		70235
<u>MODIFIED OHIO</u>		70236
<u>TAXABLE INCOME (TRUSTS)</u>		70237
<u>OR</u>		70238
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	70239
<u>\$5,000 or less</u>	<u>.649%</u>	70240
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$32.45 plus 1.299% of the amount in excess of \$5,000</u>	70241
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$97.40 plus 2.598% of the amount in excess of \$10,000</u>	70242
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$227.30 plus 3.247% of the amount in excess of \$15,000</u>	70243
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$389.65 plus 3.895% of the amount in excess of \$20,000</u>	70244
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,168.65 plus 4.546% of the amount in excess of \$40,000</u>	70245
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,987.05 plus 5.194% of the amount in excess of \$80,000</u>	70246
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,025.85 plus 6.031% of the amount in excess of \$100,000</u>	70247
<u>More than \$200,000</u>	<u>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</u>	70248
<u>(5) For taxable years beginning in 2008:</u>		70249

<u>OHIO ADJUSTED GROSS INCOME LESS</u>		70250
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		70251
<u>MODIFIED OHIO</u>		70252
<u>TAXABLE INCOME (TRUSTS)</u>		70253
<u>OR</u>		70254
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	70255
<u>\$5,000 or less</u>	<u>.618%</u>	70256
<u>More than \$5,000 but not more</u>	<u>\$30.90 plus 1.236% of the amount</u>	70257
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$92.70 plus 2.473% of the amount</u>	70258
<u>than \$15,000</u>	<u>in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$216.35 plus 3.091% of the</u>	70259
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$370.90 plus 3.708% of the</u>	70260
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,112.50 plus 4.327% of the</u>	70261
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$2,843.30 plus 4.945% of the</u>	70262
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$3,832.30 plus 5.741% of the</u>	70263
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the</u>	70264
	<u>amount in excess of \$200,000</u>	
<u>(6) For taxable years beginning in 2009 or thereafter:</u>		70265
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		70266
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		70267
<u>MODIFIED OHIO</u>		70268
<u>TAXABLE INCOME (TRUSTS)</u>		70269
<u>OR</u>		70270
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	70271
<u>\$5,000 or less</u>	<u>.587%</u>	70272

<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>	70273
<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>	70274
<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>	70275
<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>	70276
<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>	70277
<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>	70278
<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>	70279
<u>More than \$200,000</u>	<u>\$9,090.00 plus 5.925% of the amount in excess of \$200,000</u>	70280

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 70297
amount resulting from the adjustment in the preceding year. 70298

(B) If the director of budget and management makes a 70299
certification to the tax commissioner under division (B) of 70300
section 131.44 of the Revised Code, the amount of tax as 70301
determined under division (A) of this section shall be reduced by 70302
the percentage prescribed in that certification for taxable years 70303
beginning in the calendar year in which that certification is 70304
made. 70305

(C) The levy of this tax on income does not prevent a 70306
municipal corporation, a joint economic development zone created 70307
under section 715.691, or a joint economic development district 70308
created under section 715.70 or 715.71 or sections 715.72 to 70309
715.81 of the Revised Code from levying a tax on income. 70310

(D) This division applies only to taxable years of a trust 70311
beginning in 2002,~~2003~~, or 2004 thereafter. 70312

(1) The tax imposed by this section on a trust shall be 70313
computed by multiplying the Ohio modified taxable income of the 70314
trust by the rates prescribed by division (A) of this section. 70315

(2) A credit is allowed against the tax computed under 70316
division (D) of this section equal to the lesser of (1) the tax 70317
paid to another state or the District of Columbia on the trust's 70318
modified nonbusiness income, other than the portion of the trust's 70319
nonbusiness income that is qualifying investment income as defined 70320
in section 5747.012 of the Revised Code, or (2) the effective tax 70321
rate, based on modified Ohio taxable income, multiplied by the 70322
trust's modified nonbusiness income other than the portion of 70323
trust's nonbusiness income that is qualifying investment income. 70324
The credit applies before any other applicable credits. 70325

(3) The credits enumerated in divisions (A)(1) to (13) of 70326
section 5747.98 of the Revised Code do not apply to a trust 70327

subject to this division. Any credits enumerated in other 70328
divisions of section 5747.98 of the Revised Code apply to a trust 70329
subject to this division. To the extent that the trust distributes 70330
income for the taxable year for which a credit is available to the 70331
trust, the credit shall be shared by the trust and its 70332
beneficiaries. The tax commissioner and the trust shall be guided 70333
by applicable regulations of the United States treasury regarding 70334
the sharing of credits. 70335

(E) For the purposes of this section, "trust" means any trust 70336
described in Subchapter J of Chapter 1 of the Internal Revenue 70337
Code, excluding trusts that are not irrevocable as defined in 70338
division (I)(3)(b) of section 5747.01 of the Revised Code and that 70339
have no modified Ohio taxable income for the taxable year, 70340
charitable remainder trusts, qualified funeral trusts and preneed 70341
funeral contract trusts established pursuant to section 1111.19 of 70342
the Revised Code that are not qualified funeral trusts, endowment 70343
and perpetual care trusts, qualified settlement trusts and funds, 70344
designated settlement trusts and funds, and trusts exempted from 70345
taxation under section 501(a) of the Internal Revenue Code. 70346

Sec. 5747.05. As used in this section, "income tax" includes 70347
both a tax on net income and a tax measured by net income. 70348

The following credits shall be allowed against the income tax 70349
imposed by section 5747.02 of the Revised Code on individuals and 70350
estates: 70351

(A)(1) The amount of tax otherwise due under section 5747.02 70352
of the Revised Code on such portion of the adjusted gross income 70353
of any nonresident taxpayer that is not allocable to this state 70354
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 70355

(2) The credit provided under this division shall not exceed 70356
the portion of the total tax due under section 5747.02 of the 70357

Revised Code that the amount of the nonresident taxpayer's 70358
adjusted gross income not allocated to this state pursuant to 70359
sections 5747.20 to 5747.23 of the Revised Code bears to the total 70360
adjusted gross income of the nonresident taxpayer derived from all 70361
sources everywhere. 70362

(3) The tax commissioner may enter into an agreement with the 70363
taxing authorities of any state or of the District of Columbia 70364
that imposes an income tax to provide that compensation paid in 70365
this state to a nonresident taxpayer shall not be subject to the 70366
tax levied in section 5747.02 of the Revised Code so long as 70367
compensation paid in such other state or in the District of 70368
Columbia to a resident taxpayer shall likewise not be subject to 70369
the income tax of such other state or of the District of Columbia. 70370

(B) The lesser of division (B)(1) or (2) of this section: 70371

(1) The amount of tax otherwise due under section 5747.02 of 70372
the Revised Code on such portion of the adjusted gross income of a 70373
resident taxpayer that in another state or in the District of 70374
Columbia is subjected to an income tax. The credit provided under 70375
division (B)(1) of this section shall not exceed the portion of 70376
the total tax due under section 5747.02 of the Revised Code that 70377
the amount of the resident taxpayer's adjusted gross income 70378
subjected to an income tax in the other state or in the District 70379
of Columbia bears to the total adjusted gross income of the 70380
resident taxpayer derived from all sources everywhere. 70381

(2) The amount of income tax liability to another state or 70382
the District of Columbia on the portion of the adjusted gross 70383
income of a resident taxpayer that in another state or in the 70384
District of Columbia is subjected to an income tax. The credit 70385
provided under division (B)(2) of this section shall not exceed 70386
the amount of tax otherwise due under section 5747.02 of the 70387
Revised Code. 70388

(3) If the credit provided under division (B) of this section 70389
is affected by a change in either the portion of adjusted gross 70390
income of a resident taxpayer subjected to an income tax in 70391
another state or the District of Columbia or the amount of income 70392
tax liability that has been paid to another state or the District 70393
of Columbia, the taxpayer shall report the change to the tax 70394
commissioner within sixty days of the change in such form as the 70395
commissioner requires. 70396

(a) In the case of an underpayment, the report shall be 70397
accompanied by payment of any additional tax due as a result of 70398
the reduction in credit together with interest on the additional 70399
tax and is a return subject to assessment under section 5747.13 of 70400
the Revised Code solely for the purpose of assessing any 70401
additional tax due under this division, together with any 70402
applicable penalty and interest. It shall not reopen the 70403
computation of the taxpayer's tax liability under this chapter 70404
from a previously filed return no longer subject to assessment 70405
except to the extent that such liability is affected by an 70406
adjustment to the credit allowed by division (B) of this section. 70407

(b) In the case of an overpayment, an application for refund 70408
may be filed under this division within the sixty day period 70409
prescribed for filing the report even if it is beyond the period 70410
prescribed in section 5747.11 of the Revised Code if it otherwise 70411
conforms to the requirements of such section. An application filed 70412
under this division shall only claim refund of overpayments 70413
resulting from an adjustment to the credit allowed by division (B) 70414
of this section unless it is also filed within the time prescribed 70415
in section 5747.11 of the Revised Code. It shall not reopen the 70416
computation of the taxpayer's tax liability except to the extent 70417
that such liability is affected by an adjustment to the credit 70418
allowed by division (B) of this section. 70419

(4) No credit shall be allowed under division (B) of this 70420

section to the extent that for any taxable year the taxpayer has 70421
directly or indirectly deducted, or was required to directly or 70422
indirectly deduct, the amount of income tax liability to another 70423
state or the District of Columbia in computing federal adjusted 70424
gross income. 70425

(C) For a taxpayer sixty-five years of age or older during 70426
the taxable year, a credit for such year equal to fifty dollars 70427
for each return required to be filed under section 5747.08 of the 70428
Revised Code. 70429

(D) A taxpayer sixty-five years of age or older during the 70430
taxable year who has received a lump-sum distribution from a 70431
pension, retirement, or profit-sharing plan in the taxable year 70432
may elect to receive a credit under this division in lieu of the 70433
credit to which the taxpayer is entitled under division (C) of 70434
this section. A taxpayer making such election shall receive a 70435
credit for the taxable year equal to fifty dollars times the 70436
taxpayer's expected remaining life as shown by annuity tables 70437
issued under the provisions of the Internal Revenue Code and in 70438
effect for the calendar year which includes the last day of the 70439
taxable year. A taxpayer making an election under this division is 70440
not entitled to the credit authorized under division (C) of this 70441
section in subsequent taxable years except that if such election 70442
was made prior to July 1, 1983, the taxpayer is entitled to 70443
one-half the credit authorized under such division in subsequent 70444
taxable years but may not make another election under this 70445
division. 70446

(E) A taxpayer who is not sixty-five years of age or older 70447
during the taxable year who has received a lump-sum distribution 70448
from a pension, retirement, or profit-sharing plan in a taxable 70449
year ending on or before July 31, 1991, may elect to take a credit 70450
against the tax otherwise due under this chapter for such year 70451
equal to fifty dollars times the expected remaining life of a 70452

taxpayer sixty-five years of age as shown by annuity tables issued 70453
under the provisions of the Internal Revenue Code and in effect 70454
for the calendar year which includes the last day of the taxable 70455
year. A taxpayer making an election under this division is not 70456
entitled to a credit under division (C) or (D) of this section in 70457
any subsequent year except that if such election was made prior to 70458
July 1, 1983, the taxpayer is entitled to one-half the credit 70459
authorized under division (C) of this section in subsequent years 70460
but may not make another election under this division. No taxpayer 70461
may make an election under this division for a taxable year ending 70462
on or after August 1, 1991. 70463

(F) A taxpayer making an election under either division (D) 70464
or (E) of this section may make only one such election in the 70465
taxpayer's lifetime. 70466

(G)(1) On a joint return filed by a husband and wife, each of 70467
whom had adjusted gross income of at least five hundred dollars, 70468
exclusive of interest, dividends and distributions, royalties, 70469
rent, and capital gains, a credit equal to the percentage shown in 70470
the table contained in this division of the amount of tax due 70471
after allowing for any other credit that precedes the credit under 70472
this division in the order required under section 5747.98 of the 70473
Revised Code. 70474

(2) The credit to which a taxpayer is entitled under this 70475
division in any taxable year is the percentage shown in column B 70476
that corresponds with the taxpayer's adjusted gross income, less 70477
exemptions for the taxable year: 70478

A.	B.	
IF THE ADJUSTED GROSS INCOME,	THE CREDIT FOR THE TAXABLE	70480
LESS EXEMPTIONS, FOR THE TAX YEAR	YEAR IS:	
IS:		
\$25,000 or less	20%	70481
More than \$25,000 but not more	15%	70482

than \$50,000

More than \$50,000 but not more than \$75,000 10% 70483

More than \$75,000 5% 70484

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year. 70485
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(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. 70487
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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. 70492
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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. 70497
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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. 70507
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(L) No credit shall be allowed under division (B) of this 70511

section for compensation that is not subject to the income tax of 70512
another state or the District of Columbia as the result of an 70513
agreement entered into by the tax commissioner under division 70514
(A)(3) of this section. 70515

Sec. 5747.056. For taxable years beginning in 2005 or 70516
thereafter, a credit shall be allowed against the tax imposed by 70517
section 5747.02 of the Revised Code for an individual whose Ohio 70518
adjusted gross income less exemptions is ten thousand dollars or 70519
less. For taxable years beginning in 2005, the credit shall equal 70520
one hundred seven dollars. For taxable years beginning in 2006, 70521
the credit shall equal one hundred two dollars. For taxable years 70522
beginning in 2007, the credit shall equal ninety-eight dollars. 70523
For taxable years beginning in 2008, the credit shall equal 70524
ninety-three dollars. For taxable years beginning in 2009 or 70525
thereafter, the credit shall equal eighty-eight dollars. The 70526
credit shall be claimed in the order required under section 70527
5747.98 of the Revised Code. 70528

Sec. 5747.08. An annual return with respect to the tax 70529
imposed by section 5747.02 of the Revised Code and each tax 70530
imposed under Chapter 5748. of the Revised Code shall be made by 70531
every taxpayer for any taxable year for which the taxpayer is 70532
liable for the tax imposed by that section or under that chapter, 70533
unless the total credits allowed under divisions (E), (F), and (G) 70534
of section 5747.05 of the Revised Code for the year are equal to 70535
or exceed the tax imposed by section 5747.02 of the Revised Code, 70536
in which case no return shall be required unless the taxpayer is 70537
liable for a tax imposed pursuant to Chapter 5748. of the Revised 70538
Code. 70539

(A) If an individual is deceased, any return or notice 70540
required of that individual under this chapter shall be made and 70541

filed by that decedent's executor, administrator, or other person 70542
charged with the property of that decedent. 70543

(B) If an individual is unable to make a return or notice 70544
required by this chapter, the return or notice required of that 70545
individual shall be made and filed by the individual's duly 70546
authorized agent, guardian, conservator, fiduciary, or other 70547
person charged with the care of the person or property of that 70548
individual. 70549

(C) Returns or notices required of an estate or a trust shall 70550
be made and filed by the fiduciary of the estate or trust. 70551

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 70552
of this section, any pass-through entity may file a single return 70553
on behalf of one or more of the entity's investors other than an 70554
investor that is a person subject to the tax imposed under section 70555
5733.06 of the Revised Code. The single return shall set forth the 70556
name, address, and social security number or other identifying 70557
number of each of those pass-through entity investors and shall 70558
indicate the distributive share of each of those pass-through 70559
entity investor's income taxable in this state in accordance with 70560
sections 5747.20 to 5747.231 of the Revised Code. Such 70561
pass-through entity investors for whom the pass-through entity 70562
elects to file a single return are not entitled to the exemption 70563
or credit provided for by sections 5747.02 and 5747.022 of the 70564
Revised Code; shall calculate the tax before business credits at 70565
the highest rate of tax set forth in section 5747.02 of the 70566
Revised Code for the taxable year for which the return is filed; 70567
and are entitled to only their distributive share of the business 70568
credits as defined in division (D)(2) of this section. A single 70569
check drawn by the pass-through entity shall accompany the return 70570
in full payment of the tax due, as shown on the single return, for 70571
such investors, other than investors who are persons subject to 70572
the tax imposed under section 5733.06 of the Revised Code. 70573

(b)(i) A pass-through entity shall not include in such a 70574
single return any investor that is a trust to the extent that any 70575
direct or indirect current, future, or contingent beneficiary of 70576
the trust is a person subject to the tax imposed under section 70577
5733.06 of the Revised Code. 70578

(ii) A pass-through entity shall not include in such a single 70579
return any investor that is itself a pass-through entity to the 70580
extent that any direct or indirect investor in the second 70581
pass-through entity is a person subject to the tax imposed under 70582
section 5733.06 of the Revised Code. 70583

(c) Nothing in division (D) of this section precludes the tax 70584
commissioner from requiring such investors to file the return and 70585
make the payment of taxes and related interest, penalty, and 70586
interest penalty required by this section or section 5747.02, 70587
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 70588
of this section shall be construed to provide to such an investor 70589
or pass-through entity any additional deduction or credit, other 70590
than the credit provided by division (J) of this section, solely 70591
on account of the entity's filing a return in accordance with this 70592
section. Such a pass-through entity also shall make the filing and 70593
payment of estimated taxes on behalf of the pass-through entity 70594
investors other than an investor that is a person subject to the 70595
tax imposed under section 5733.06 of the Revised Code. 70596

(2) For the purposes of this section, "business credits" 70597
means the credits listed in section 5747.98 of the Revised Code 70598
excluding the following credits: 70599

(a) The retirement credit under division (B) of section 70600
5747.055 of the Revised Code; 70601

(b) The senior citizen credit under division (C) of section 70602
5747.05 of the Revised Code; 70603

(c) The lump sum distribution credit under division (D) of 70604

section 5747.05 of the Revised Code;	70605
(d) The dependent care credit under section 5747.054 of the Revised Code;	70606 70607
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	70608 70609
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	70610 70611
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	70612 70613
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	70614 70615
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	70616 70617
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	70618 70619
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	70620 70621
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	70622 70623
<u>(m) The low-income credit under section 5747.056 of the Revised Code.</u>	70624 70625
(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.	70626 70627 70628 70629 70630 70631 70632 70633

(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 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. 70666

(F) Each return or notice required to be filed under this 70667
section shall contain the signature of the taxpayer or the 70668
taxpayer's duly authorized agent and of the person who prepared 70669
the return for the taxpayer, and shall include the taxpayer's 70670
social security number. Each return shall be verified by a 70671
declaration under the penalties of perjury. The tax commissioner 70672
shall prescribe the form that the signature and declaration shall 70673
take. 70674

(G) Each return or notice required to be filed under this 70675
section shall be made and filed as required by section 5747.04 of 70676
the Revised Code, on or before the fifteenth day of April of each 70677
year, on forms that the tax commissioner shall prescribe, together 70678
with remittance made payable to the treasurer of state in the 70679
combined amount of the state and all school district income taxes 70680
shown to be due on the form, unless the combined amount shown to 70681
be due is one dollar or less, in which case that amount need not 70682
be remitted. 70683

Upon good cause shown, the commissioner may extend the period 70684
for filing any notice or return required to be filed under this 70685
section and may adopt rules relating to extensions. If the 70686
extension results in an extension of time for the payment of any 70687
state or school district income tax liability with respect to 70688
which the return is filed, the taxpayer shall pay at the time the 70689
tax liability is paid an amount of interest computed at the rate 70690
per annum prescribed by section 5703.47 of the Revised Code on 70691
that liability from the time that payment is due without extension 70692
to the time of actual payment. Except as provided in section 70693
5747.132 of the Revised Code, in addition to all other interest 70694
charges and penalties, all taxes imposed under this chapter or 70695
Chapter 5748. of the Revised Code and remaining unpaid after they 70696
become due, except combined amounts due of one dollar or less, 70697

bear interest at the rate per annum prescribed by section 5703.47 70698
of the Revised Code until paid or until the day an assessment is 70699
issued under section 5747.13 of the Revised Code, whichever occurs 70700
first. 70701

If the commissioner considers it necessary in order to ensure 70702
the payment of the tax imposed by section 5747.02 of the Revised 70703
Code or any tax imposed under Chapter 5748. of the Revised Code, 70704
the commissioner may require returns and payments to be made 70705
otherwise than as provided in this section. 70706

(H) If any report, claim, statement, or other document 70707
required to be filed, or any payment required to be made, within a 70708
prescribed period or on or before a prescribed date under this 70709
chapter is delivered after that period or that date by United 70710
States mail to the agency, officer, or office with which the 70711
report, claim, statement, or other document is required to be 70712
filed, or to which the payment is required to be made, the date of 70713
the postmark stamped on the cover in which the report, claim, 70714
statement, or other document, or payment is mailed shall be deemed 70715
to be the date of delivery or the date of payment. 70716

If a payment is required to be made by electronic funds 70717
transfer pursuant to section 5747.072 of the Revised Code, the 70718
payment is considered to be made when the payment is received by 70719
the treasurer of state or credited to an account designated by the 70720
treasurer of state for the receipt of tax payments. 70721

"The date of the postmark" means, in the event there is more 70722
than one date on the cover, the earliest date imprinted on the 70723
cover by the United States postal service. 70724

(I) The amounts withheld by the employer pursuant to section 70725
5747.06 of the Revised Code shall be allowed to the recipient of 70726
the compensation as credits against payment of the appropriate 70727
taxes imposed on the recipient by section 5747.02 and under 70728

Chapter 5748. of the Revised Code.

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(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. 5747.212. (A) This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.

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~~(B) A pass-through entity investor that owns taxpayer, directly or indirectly, owning at any time during the three-year period ending on the last day of the taxpayer's taxable year at least twenty per cent of the pass-through equity voting rights of a section 5747.212 entity at any time during the current taxable year or either of the two preceding taxable years shall apportion any income, including gain or loss, realized from the each sale, exchange, or other disposition of a debt or equity interest in the~~

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that entity as prescribed in this section. For such purposes, in 70760
lieu of using the method prescribed by sections 5747.20 and 70761
5747.21 of the Revised Code, the investor shall apportion the 70762
income using the average of the ~~pass-through~~ section 5747.212 70763
entity's apportionment fractions otherwise applicable under 70764
section 5733.05, 5733.056, or 5747.21 of the Revised Code for the 70765
current and two preceding taxable years. If the ~~pass-through~~ 70766
section 5747.212 entity was not in business for one or more of 70767
those years, each year that the entity was not in business shall 70768
be excluded in determining the average. 70769

(C) For the purposes of this section: 70770

(1) A "section 5747.212 entity" is any qualifying person if, 70771
on at least one day of the three-year period ending on the last 70772
day of the taxpayer's taxable year, any of the following apply: 70773

(a) The qualifying person is a pass-through entity; 70774

(b) Five or fewer persons directly or indirectly own all the 70775
equity interests, with voting rights, of the qualifying person; 70776

(c) One person directly or indirectly owns at least fifty per 70777
cent of the qualifying person's equity interests with voting 70778
rights. 70779

(2) A "qualifying person" is any person other than an 70780
individual, estate, or trust. 70781

(3) "Estate" and "trust" do not include any person classified 70782
for federal income tax purposes as an association taxable as a 70783
corporation. 70784

Sec. 5747.331. (A) As used in this section: 70785

(1) "Borrower" means any person that receives a loan from the 70786
director of development under section 166.21 of the Revised Code, 70787
regardless of whether the borrower is subject to the tax imposed 70788
by section 5747.02 of the Revised Code. 70789

(2) "Related member" has the same meaning as in section 70790
5733.042 of the Revised Code. 70791

(3) "Qualified research and development loan payments" has 70792
the same meaning as in division (D) of section 166.21 of the 70793
Revised Code. 70794

(B) Beginning ~~in~~ with taxable year 2003 and ending with 70795
taxable years beginning in 2007, a nonrefundable credit is allowed 70796
against the tax imposed by section 5747.02 of the Revised Code 70797
equal to a borrower's qualified research and development loan 70798
payments made during the calendar year that includes the last day 70799
of the taxable year for which the credit is claimed. The amount of 70800
the credit for a taxable year shall not exceed one hundred fifty 70801
thousand dollars. No taxpayer is entitled to claim a credit under 70802
this section unless it has obtained a certificate issued by the 70803
director of development under division (D) of section 166.21 of 70804
the Revised Code. The credit shall be claimed in the order 70805
required under section 5747.98 of the Revised Code. The credit, to 70806
the extent it exceeds the taxpayer's tax liability for the taxable 70807
year after allowance for any other credits that precede the credit 70808
under this section in that order, shall be carried forward to the 70809
next succeeding taxable year or years until fully used. Any credit 70810
not fully utilized by the taxable year beginning in 2007 may be 70811
carried forward and applied against the tax levied by Chapter 70812
5751. of the Revised Code to the extent allowed by section 5751.52 70813
of the Revised Code. 70814

(C) A borrower entitled to a credit under this section may 70815
assign the credit, or a portion thereof, to any of the following: 70816

(1) A related member of that borrower; 70817

(2) The owner or lessee of the eligible research and 70818
development project; 70819

(3) A related member of the owner or lessee of the eligible 70820

research and development project. 70821

A borrower making an assignment under this division shall 70822
provide written notice of the assignment to the tax commissioner 70823
and the director of development, in such form as the tax 70824
commissioner prescribes, before the credit that was assigned is 70825
used. The assignor may not claim the credit to the extent it was 70826
assigned to an assignee. The assignee may claim the credit only to 70827
the extent the assignor has not claimed it. 70828

(D) If any taxpayer is a shareholder in an S corporation, a 70829
partner in a partnership, or a member in a limited liability 70830
company treated as a partnership for federal income tax purposes, 70831
the taxpayer shall be allowed the taxpayer's distributive or 70832
proportionate share of the credit available through the S 70833
corporation, partnership, or limited liability company. 70834

(E) The aggregate credit against the taxes imposed by 70835
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 70836
Code that may be claimed under this section and section 5733.352 70837
of the Revised Code by a borrower as a result of qualified 70838
research and development loan payments attributable during a 70839
calendar year to any one loan shall not exceed one hundred fifty 70840
thousand dollars. 70841

Sec. 5747.70. (A) In computing Ohio adjusted gross income, a 70842
deduction from federal adjusted gross income is allowed to a 70843
contributor for the amount contributed during the taxable year to 70844
a variable college savings program account and to a purchaser of 70845
tuition ~~credits~~ units under the Ohio college savings program 70846
created by Chapter 3334. of the Revised Code to the extent that 70847
the amounts of such contributions and purchases were not deducted 70848
in determining the contributor's or purchaser's federal adjusted 70849
gross income for the taxable year. The combined amount of 70850
contributions and purchases deducted in any taxable year by a 70851

taxpayer or the taxpayer and the taxpayer's spouse, regardless of 70852
whether the taxpayer and the taxpayer's spouse file separate 70853
returns or a joint return, is limited to two thousand dollars for 70854
each beneficiary for whom contributions or purchases are made. If 70855
the combined annual contributions and purchases for a beneficiary 70856
exceed two thousand dollars, the excess may be carried forward and 70857
deducted in future taxable years until the contributions and 70858
purchases have been fully deducted. 70859

(B) In computing Ohio adjusted gross income, a deduction from 70860
federal adjusted gross income is allowed for: 70861

(1) Income related to tuition ~~credits~~ units and contributions 70862
that as of the end of the taxable year have not been refunded 70863
pursuant to the termination of a tuition payment contract or 70864
variable college savings program account under section 3334.10 of 70865
the Revised Code, to the extent that such income is included in 70866
federal adjusted gross income. 70867

(2) The excess of the total purchase price of tuition ~~credits~~ 70868
units refunded during the taxable year pursuant to the termination 70869
of a tuition payment contract under section 3334.10 of the Revised 70870
Code over the amount of the refund, to the extent the amount of 70871
the excess was not deducted in determining federal adjusted gross 70872
income. Division (B)(2) of this section applies only to ~~credits~~ 70873
units for which no deduction was allowable under division (A) of 70874
this section. 70875

(C) In computing Ohio adjusted gross income, there shall be 70876
added to federal adjusted gross income the amount of loss related 70877
to tuition ~~credits~~ units and contributions that as of the end of 70878
the taxable year have not been refunded pursuant to the 70879
termination of a tuition payment contract or variable college 70880
savings program account under section 3334.10 of the Revised Code, 70881
to the extent that such loss was deducted in determining federal 70882
adjusted gross income. 70883

(D) For taxable years in which distributions or refunds are 70884
made under a tuition payment or variable college savings program 70885
contract for any reason other than payment of tuition or other 70886
higher education expenses, or the beneficiary's death, disability, 70887
or receipt of a scholarship as described in section 3334.10 of the 70888
Revised Code: 70889

(1) If the distribution or refund is paid to the purchaser or 70890
contributor or beneficiary, any portion of the distribution or 70891
refund not included in the recipient's federal adjusted gross 70892
income shall be added to the recipient's federal adjusted gross 70893
income in determining the recipient's Ohio adjusted gross income, 70894
except that the amount added shall not exceed amounts previously 70895
deducted under division (A) of this section less any amounts added 70896
under division (D)(1) of this section in a prior taxable year. 70897

(2) If amounts paid by a purchaser or contributor on or after 70898
January 1, 2000, are distributed or refunded to someone other than 70899
the purchaser or contributor or beneficiary, the amount of the 70900
payment not included in the recipient's federal adjusted gross 70901
income, less any amounts added under division (D) of this section 70902
in a prior taxable year, shall be added to the recipient's federal 70903
adjusted gross income in determining the recipient's Ohio adjusted 70904
gross income. 70905

Sec. 5747.80. (A) Upon the issuance of a tax credit 70906
certificate by the Ohio venture capital authority under section 70907
150.07 of the Revised Code, a credit may be claimed against the 70908
tax imposed by section 5747.02 of the Revised Code. The credit 70909
shall be claimed for the taxable year specified in the certificate 70910
issued by the authority and in the order required under section 70911
5747.98 of the Revised Code. 70912

(B) If the taxpayer elected a refundable credit under section 70913
150.07 of the Revised Code and the amount of the credit shown on 70914

the certificate does not exceed the tax otherwise due under 70915
section 5747.02 of the Revised Code after all nonrefundable 70916
credits are deducted, then the taxpayer shall claim a refundable 70917
credit equal to the amount of the credit shown on the certificate. 70918

(C) If the taxpayer elected a refundable credit under section 70919
150.07 of the Revised Code, and the amount of the credit shown on 70920
the certificate exceeds the tax otherwise due under section 70921
5747.02 of the Revised Code after all nonrefundable credits, 70922
including the credit allowed under this section, are deducted in 70923
that order, the taxpayer shall receive a refund equal to 70924
seventy five per cent of that excess. If the taxpayer elected a 70925
nonrefundable credit, the amount of the credit, claimed in that 70926
order, shall not exceed the tax otherwise due after all the 70927
taxpayer's credits are deducted in that order. If claim a 70928
refundable credit equal to the sum of the following: 70929

(1) The amount, if any, of the tax otherwise due under 70930
section 5747.02 of the Revised Code after all nonrefundable 70931
credits are deducted; 70932

(2) Seventy-five per cent of the difference between the 70933
amount of the refundable credit shown on the certificate and the 70934
tax otherwise due under section 5747.02 of the Revised Code after 70935
all nonrefundable credits are deducted. 70936

(D) If the taxpayer elected a nonrefundable credit and the 70937
credit to which the taxpayer would otherwise be entitled under 70938
this section for any taxable year is greater than the tax 70939
otherwise due under section 5747.02 of the Revised Code, after 70940
allowing for any other credits that, under section 5747.98 of the 70941
Revised Code, precede the credit allowed under this section, the 70942
excess shall be allowed as a nonrefundable credit in each of the 70943
ensuing ten taxable years, but the amount of any excess credit 70944
allowed in the ensuing taxable year shall be deducted from the 70945

balance carried forward to the next taxable year. 70946

Sec. 5747.98. (A) To provide a uniform procedure for 70947
calculating the amount of tax due under section 5747.02 of the 70948
Revised Code, a taxpayer shall claim any credits to which the 70949
taxpayer is entitled in the following order: 70950

(1) The retirement income credit under division (B) of 70951
section 5747.055 of the Revised Code; 70952

(2) The senior citizen credit under division (C) of section 70953
5747.05 of the Revised Code; 70954

(3) The lump sum distribution credit under division (D) of 70955
section 5747.05 of the Revised Code; 70956

(4) The dependent care credit under section 5747.054 of the 70957
Revised Code; 70958

(5) The lump sum retirement income credit under division (C) 70959
of section 5747.055 of the Revised Code; 70960

(6) The lump sum retirement income credit under division (D) 70961
of section 5747.055 of the Revised Code; 70962

(7) The lump sum retirement income credit under division (E) 70963
of section 5747.055 of the Revised Code; 70964

(8) The low-income credit under section 5747.056 of the 70965
Revised Code; 70966

(9) The credit for displaced workers who pay for job training 70967
under section 5747.27 of the Revised Code; 70968

~~(9)~~(10) The campaign contribution credit under section 70969
5747.29 of the Revised Code; 70970

~~(10)~~(11) The twenty-dollar personal exemption credit under 70971
section 5747.022 of the Revised Code; 70972

~~(11)~~(12) The joint filing credit under division (G) of 70973

section 5747.05 of the Revised Code;	70974
(12) <u>(13)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	70975 70976
(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;	70977 70978
(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;	70979 70980 70981
(15) <u>(16)</u> The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	70982 70983
(16) <u>(17)</u> The credit for adoption of a minor child under section 5747.37 of the Revised Code;	70984 70985
(17) <u>(18)</u> The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	70986 70987
(18) <u>(19)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	70988 70989
(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;	70990 70991 70992 70993
(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;	70994 70995 70996
(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;	70997 70998 70999
(22) <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	71000 71001
(23) <u>(24)</u> The enterprise zone credit under section 5709.66 of	71002

the Revised Code;	71003
(24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	71004 71005
(25) <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	71006 71007
(26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	71008 71009
(27) <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	71010 71011
(28) <u>(29)</u> The export sales credit under section 5747.057 of the Revised Code;	71012 71013
(29) <u>(30)</u> The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	71014 71015 71016
(30) <u>(31)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	71017 71018
(31) <u>(32)</u> The research and development credit under section 5747.331 of the Revised Code;	71019 71020
(32) <u>(33)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	71021 71022
(33) <u>(34)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	71023 71024
(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;	71025 71026 71027
(35) <u>(36)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	71028 71029
(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	71030 71031

Revised Code if the taxpayer elected a refundable credit under 71032
section 150.07 of the Revised Code. 71033

(B) For any credit, except the credits enumerated in 71034
divisions (A)~~(32)~~(33) to ~~(36)~~(37) of this section and the credit 71035
granted under division (I) of section 5747.08 of the Revised Code, 71036
the amount of the credit for a taxable year shall not exceed the 71037
tax due after allowing for any other credit that precedes it in 71038
the order required under this section. Any excess amount of a 71039
particular credit may be carried forward if authorized under the 71040
section creating that credit. Nothing in this chapter shall be 71041
construed to allow a taxpayer to claim, directly or indirectly, a 71042
credit more than once for a taxable year. 71043

Sec. 5747.99. (A) Whoever violates section 5747.19 of the 71044
Revised Code, ~~or whoever violates section 5747.06 or 5747.07 of~~ 71045
~~the Revised Code by failing to remit state income taxes withheld~~ 71046
~~from an employee, is guilty of a misdemeanor of the first degree.~~ 71047
If the person previously has been convicted of any offense under 71048
Title LVII of the Revised Code, the person is guilty of a felony 71049
of the ~~fifth~~ fourth degree. 71050

(B) Whoever violates section 5747.06 or 5747.07 of the 71051
Revised Code by failing to remit to the state the tax collected 71052
under section 5747.06 or 5747.07 of the Revised Code is guilty of 71053
a misdemeanor of the first degree if the amount of collected tax 71054
the person failed to remit is less than five hundred dollars and 71055
is guilty of a felony of the fourth degree if the amount of 71056
collected tax the person failed to remit is five hundred dollars 71057
or more. 71058

(C) Whoever violates any provision of sections 5747.01 to 71059
5747.19 of the Revised Code, or any lawful rule promulgated by the 71060
tax commissioner under authority of any provision of those 71061
sections, for the violation of which no other penalty is provided 71062

in this section, ~~shall be fined not less than one hundred nor more~~ 71063
~~than five thousand dollars~~ is guilty of a minor misdemeanor. If 71064
the person previously has been convicted of any offense under 71065
Title LVII of the Revised Code, the person is guilty of a 71066
misdemeanor of the first degree. 71067

~~(C)~~(D) Whoever violates section 5747.49 of the Revised Code 71068
shall be fined not more than five dollars for each day that 71069
elapses between the date specified by law for performance and the 71070
date when the duty is actually performed. 71071

Sec. 5749.02. (A) For the purpose of providing revenue to 71072
administer the state's coal mining and reclamation regulatory 71073
program, to meet the environmental and resource management needs 71074
of this state, and to reclaim land affected by mining, an excise 71075
tax is hereby levied on the privilege of engaging in the severance 71076
of natural resources from the soil or water of this state. The tax 71077
shall be imposed upon the severer and shall be: 71078

(1) Seven cents per ton of coal; 71079

(2) Four cents per ton of salt; 71080

(3) Two cents per ton of limestone or dolomite; 71081

(4) Two cents per ton of sand and gravel; 71082

(5) Ten cents per barrel of oil; 71083

(6) Two and one-half cents per thousand cubic feet of natural 71084
gas; 71085

(7) One cent per ton of clay, sandstone or conglomerate, 71086
shale, gypsum, or quartzite. 71087

(B) Of the moneys received by the treasurer of state from the 71088
tax levied in division (A)(1) of this section, six and 71089
three-tenths per cent shall be credited to the geological mapping 71090
fund created in section 1505.09 of the Revised Code, fourteen and 71091

two-tenths per cent shall be credited to the reclamation 71092
forfeiture fund created in section 1513.18 of the Revised Code, 71093
fifty-seven and nine-tenths per cent shall be credited to the coal 71094
mining administration and reclamation reserve fund created in 71095
section 1513.181 of the Revised Code, and the remainder shall be 71096
credited to the unreclaimed lands fund created in section 1513.30 71097
of the Revised Code. When, at any time during a fiscal year, the 71098
chief of the division of mineral resources management finds that 71099
the balance of the coal mining administration and reclamation 71100
reserve fund is below two million dollars, the chief shall certify 71101
that fact to the director of budget and management. Upon receipt 71102
of the chief's certification, the director shall direct the 71103
~~treasurer of state~~ tax commissioner to instead credit to the coal 71104
mining administration and reclamation reserve fund during the 71105
remainder of the fiscal year for which the certification is made 71106
the fourteen and two-tenths per cent of the moneys collected from 71107
the tax levied in division (A)(1) of this section and otherwise 71108
required by this division to be credited to the reclamation 71109
forfeiture fund. 71110

Fifteen per cent of the moneys received by the treasurer of 71111
state from the tax levied in division (A)(2) of this section shall 71112
be credited to the geological mapping fund and the remainder shall 71113
be credited to the unreclaimed lands fund. 71114

Of the moneys received by the treasurer of state from the tax 71115
levied in divisions (A)(3) and (4) of this section, seven and 71116
five-tenths per cent shall be credited to the geological mapping 71117
fund, forty-two and five-tenths per cent shall be credited to the 71118
unreclaimed lands fund, and the remainder shall be credited to the 71119
surface mining fund created in section 1514.06 of the Revised 71120
Code. 71121

Of the moneys received by the treasurer of state from the tax 71122
levied in divisions (A)(5) and (6) of this section, ninety per 71123

cent shall be credited to the oil and gas well fund created in 71124
section 1509.02 of the Revised Code and ten per cent shall be 71125
credited to the geological mapping fund. All of the moneys 71126
received by the treasurer of state from the tax levied in division 71127
(A)(7) of this section shall be credited to the surface mining 71128
fund. 71129

(C) For the purpose of paying the state's expenses for 71130
reclaiming mined lands that the operator failed to reclaim under a 71131
coal mining and reclamation permit issued under Chapter 1513. of 71132
the Revised Code, or under a surface mining permit issued under 71133
Chapter 1514. of the Revised Code, for which the operator's bond 71134
is not sufficient to pay the state's expense for reclamation, 71135
there is hereby levied an excise tax on the privilege of engaging 71136
in the severance of coal from the soil or water of this state in 71137
addition to the taxes levied by divisions (A)(1) and (D) of this 71138
section. The tax shall be imposed at the rate of one cent per ton 71139
of coal. Moneys received by the treasurer of state from the tax 71140
levied under this division shall be credited to the reclamation 71141
forfeiture fund created in section 1513.18 of the Revised Code. 71142

(D) For the purpose of paying the state's expenses for 71143
reclaiming coal mined lands that the operator failed to reclaim in 71144
accordance with Chapter 1513. of the Revised Code under a coal 71145
mining and reclamation permit issued after April 10, 1972, but 71146
before September 1, 1981, for which the operator's bond is not 71147
sufficient to pay the state's expense for reclamation and paying 71148
the expenses for administering the state's coal mining and 71149
reclamation regulatory program, there is hereby levied an excise 71150
tax on the privilege of engaging in the severance of coal from the 71151
soil or water of this state in addition to the taxes levied by 71152
divisions (A)(1) and (C) of this section. The tax shall be imposed 71153
at the rate of one cent per ton of coal as prescribed in this 71154
division. Moneys received by the treasurer of state from the tax 71155

levied by this division shall be credited to the reclamation
forfeiture fund created in section 1513.18 of the Revised Code. 71156
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When, at the close of any fiscal year, the chief finds that 71158
the balance of the reclamation forfeiture fund, plus estimated 71159
transfers to it from the coal mining and reclamation reserve fund 71160
under section 1513.181 of the Revised Code, plus the estimated 71161
revenues from the tax levied by this division for the remainder of 71162
the calendar year that includes the close of the fiscal year, are 71163
sufficient to complete the reclamation of such lands, the purposes 71164
for which the tax under this division is levied shall be deemed 71165
accomplished at the end of that calendar year. The chief, within 71166
thirty days after the close of the fiscal year, shall certify 71167
those findings to the tax commissioner, and the tax shall cease to 71168
be imposed after the last day of that calendar year. 71169

(E) On the day fixed for the payment of the severance taxes 71170
required to be paid by this section, the taxes with any penalties 71171
or interest on them shall become a lien on all property of the 71172
taxpayer in this state whether the property is employed by the 71173
taxpayer in the prosecution of its business or is in the hands of 71174
an assignee, trustee, or receiver for the benefit of creditors or 71175
stockholders. The lien shall continue until the taxes and any 71176
penalties or interest thereon are paid. 71177

Upon failure of the taxpayer to pay a tax on the day fixed 71178
for payment, the tax commissioner may file, for which no filing 71179
fee shall be charged, in the office of the county recorder in each 71180
county in this state in which the taxpayer owns or has a 71181
beneficial interest in real estate, notice of the lien containing 71182
a brief description of the real estate. The lien shall not be 71183
valid as against any mortgagee, purchaser, or judgment creditor 71184
whose rights have attached prior to the time the notice is filed 71185
in the county in which the real estate that is the subject of the 71186
mortgage, purchase, or judgment lien is located. The notice shall 71187

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, its instrumentalities, 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.

(E) "Excluded person" means any of the following:

(1) Any person with not more than forty thousand dollars of taxable gross receipts during the calendar 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; 71218
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(2) A public utility 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 period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts: 71223
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(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code; 71228
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(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity; 71232
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(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code. 71237
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As used in division (E)(2) of this section, "combined company," "company," and "public utility" have the same meanings as in section 5727.01 of the Revised Code. 71245
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(3) A financial institution, as defined in section 5725.01 of 71248

the Revised Code, that paid the corporation franchise tax charged 71249
by division (D) of section 5733.06 of the Revised Code based on 71250
one or more taxable years that include the entire tax period under 71251
this chapter; 71252

(4) A dealer in intangibles, as defined in section 5725.01 of 71253
the Revised Code, that paid the dealer in intangibles tax levied 71254
by division (D) of section 5707.03 of the Revised Code based on 71255
one or more measurement periods that include the entire tax period 71256
under this chapter; 71257

(5) A financial holding company as defined in the "Bank 71258
Holding Company Act," 12 U.S.C. 1841(p); 71259

(6) A bank holding company as defined in the "Bank Holding 71260
Company Act," 12 U.S.C. 1841(a); 71261

(7) A savings and loan holding company as defined in the 71262
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 71263
only in activities or investments permissible for a financial 71264
holding company under 12 U.S.C. 1843(k); 71265

(8) A person directly or indirectly owned by one or more 71266
financial institutions, financial holding companies, bank holding 71267
companies, savings and loan holding companies, or insurance 71268
companies described in division (E)(3), (5), (6), (7), or (9) of 71269
this section that is engaged in activities permissible for a 71270
financial holding company under 12 U.S.C. 1843(k), except that any 71271
such person held pursuant to merchant banking authority under 12 71272
U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded 71273
person. 71274

For the purposes of division (E)(8) of this section, a person 71275
owns another person under the following circumstances: 71276

(a) In the case of corporations issuing capital stock, one 71277
corporation owns another corporation if it owns fifty per cent or 71278

more of the other corporation's capital stock with current voting rights; 71279
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(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company; 71281
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(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization; 71286
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(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each such owner is described in division (E)(3), (5), (6), (7), or (9) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k); 71294
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(9) 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 period under this chapter; 71300
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(10) A person that was formed or otherwise came into existence with the purpose of facilitating one or more securitizations or similar transactions for or by any person described in division (E)(3), (5), (6), (7), (8), or (9) of this 71306
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section. For purposes of this division, "securitization" means 71310
transferring one or more assets to one or more persons and then 71311
issuing securities backed by the right to receive payment from the 71312
asset or assets so transferred. 71313

(F) "Gross receipts" means the total amount realized by a 71314
person, without deduction for the cost of goods sold or other 71315
expenses incurred, in a transaction or transactions that 71316
contribute to the production of gross income of the person, 71317
including the fair market value of any property and any services 71318
received, and any debt transferred or forgiven as consideration, 71319
and including the total amount realized with regard to unrelated 71320
business taxable income of tax-exempt organizations under the 71321
Internal Revenue Code. 71322

(1) The following are examples of gross receipts: 71323

(a) Amounts realized from the sale, exchange, or other 71324
disposition of the taxpayer's property to or with another; 71325

(b) Amounts realized from the taxpayer's performance of 71326
services for another; 71327

(c) Amounts realized from another's use or possession of the 71328
taxpayer's property or capital; 71329

(d) Amounts realized with regard to the taxpayer's unrelated 71330
business taxable income; 71331

(e) Any combination of the foregoing amounts. 71332

(2) "Gross receipts" excludes the following amounts: 71333

(a) Interest income except interest on credit sales; 71334

(b) Dividend income, distributions received, and distributive 71335
or proportionate shares of a pass-through entity as defined under 71336
section 5733.04 of the Revised Code; 71337

(c) Receipts from the sale, exchange, or other disposition of 71338

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; 71339
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(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; 71342
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(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person; 71345
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(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; 71348
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(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor 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; 71352
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(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock; 71361
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(i) Proceeds received on the account of payments from life insurance policies; 71364
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(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 71366
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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 taxable income; 71369
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(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts; 71374
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(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; 71377
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(m) Tax refunds and other tax benefit recoveries; 71380

(n) Pension reversions; 71381

(o) Contributions to capital; 71382

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer; 71383
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(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; 71386
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(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code; 71393
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(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

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(t) Receipts realized by a person engaged in selling securities in excess of the gain on the sale of those securities;

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(u) 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, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

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(v) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

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(w) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

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(x) 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. 71430
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(4) "Gross receipts" excludes amounts received from the sale of tangible personal property that is delivered into or shipped from a qualified foreign trade zone area that includes a qualified intermodal facility. 71434
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As used in division (F)(4) of this section: 71438

(a) "Qualified foreign trade zone area" means a warehouse or other place of delivery or shipment that is: 71439
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(i) Located within one mile of the nearest boundary of an international airport; and 71441
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(ii) Located, in whole or in part, within a foreign trade zone as defined in division (A)(2) of section 5709.44 of the Revised Code. 71443
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(b) "Qualified intermodal facility" means a transshipment station that is capable of receiving and shipping freight through rail transportation, highway transportation, and air transportation. A transshipment station is "capable of receiving and shipping freight" after the commencement of the construction of each of the rail, highway, and air transportation components of the facility. 71446
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(5) In the case of a taxpayer when acting as 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 71453
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meanings as in section 4735.01 of the Revised Code. 71460

(6) 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 be changed accordingly. 71461
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In calculating gross receipts, the following shall be deducted: 71468
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(a) Cash discounts allowed and taken; 71470

(b) Returns and allowances; 71471

(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 166 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; 71472
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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. 71485
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(G) "Taxable gross receipts" means gross receipts sitused to 71489

<u>this state under section 5751.033 of the Revised Code.</u>	71490
<u>(H) A person has "substantial nexus with this state" if any</u>	71491
<u>of the following applies. The person:</u>	71492
<u>(1) Owns or uses a part or all of its capital in this state;</u>	71493
<u>(2) Holds a certificate of compliance with the laws of this</u>	71494
<u>state authorizing the person to do business in this state;</u>	71495
<u>(3) Has bright-line presence in this state;</u>	71496
<u>(4) Otherwise has nexus with this state to an extent that the</u>	71497
<u>person can be required to remit the tax imposed under this chapter</u>	71498
<u>under the constitution of the United States.</u>	71499
<u>(I) A person has "bright-line presence" in this state for a</u>	71500
<u>reporting period and for the remaining portion of the calendar</u>	71501
<u>year if any of the following applies. The person:</u>	71502
<u>(1) Has property in this state with an aggregate value of at</u>	71503
<u>least fifty thousand dollars. For the purpose of division (I)(1)</u>	71504
<u>of this section, owned property is valued at original cost and</u>	71505
<u>rented property is valued at eight times the net annual rental</u>	71506
<u>charge.</u>	71507
<u>(2) Has payroll in this state of at least fifty thousand</u>	71508
<u>dollars. Payroll in this state includes all of the following:</u>	71509
<u>(a) Any amount subject to withholding by the person under</u>	71510
<u>section 5747.06 of the Revised Code;</u>	71511
<u>(b) Any other amount the person pays as compensation to an</u>	71512
<u>individual under the supervision or control of the person for work</u>	71513
<u>done in this state; and</u>	71514
<u>(c) Any amount the person pays for services performed in this</u>	71515
<u>state on its behalf by another.</u>	71516
<u>(3) Has taxable gross receipts in this state of at least five</u>	71517
<u>hundred thousand dollars.</u>	71518

(4) Has within this state at least twenty-five per cent of the person's total property, total payroll, or total sales. 71519
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(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes. 71521
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(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code. 71523
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(K) "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. 71525
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(L) "Calendar quarter" 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. 71533
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(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter. 71536
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(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year. 71539
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(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter. 71541
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(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction that generates taxable gross receipts for the other, including, but not limited to, any of the following: 71543
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(1) A person receiving a fee to sell financial instruments; 71547

(2) A person holding a valid permit to conduct horse racing 71548

<u>meetings under Chapter 3769. of the Revised Code;</u>	71549
<u>(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;</u>	71550
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<u>(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;</u>	71552
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<u>(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.</u>	71554
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<u>Sec. 5751.011.</u> (A) <u>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:</u>	71556
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<u>(1) The group includes all persons, other than persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code and corporations organized under the laws of a foreign country, having more than eighty per cent of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners;</u>	71559
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<u>(2) The group applies to the tax commissioner for approval to be treated as a consolidated elected taxpayer pursuant to division (D) of this section;</u>	71567
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<u>(3) The group agrees that if the commissioner approves the election, all of the following apply:</u>	71570
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<u>(a) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section.</u>	71572
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<u>(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to</u>	71576
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cancel its designation as a consolidated elected taxpayer. If the 71578
group does not so notify the tax commissioner, the election 71579
remains in effect for another eight calendar quarters. 71580

(c) If, at any time during any of those eight calendar 71581
quarters following the election, a former member of the group no 71582
longer meets the requirements under division (A)(1) of this 71583
section, that member shall report and pay the tax imposed under 71584
this chapter separately, as a member of a combined taxpayer, or, 71585
if the former member satisfies such requirements with respect to 71586
another consolidated elected group, as a member of that 71587
consolidated elected group. 71588

(d) The group agrees to the application of division (B) of 71589
this section. 71590

(B) A group of persons making the election under this section 71591
shall report and pay tax on all of the group's taxable gross 71592
receipts even if substantial nexus with this state does not exist 71593
for one or more persons in the group. 71594

(C)(1) A consolidated elected taxpayer shall exclude taxable 71595
gross receipts between its members. Except as provided in division 71596
(C)(2) of this section, nothing in this section shall have the 71597
effect of excluding taxable gross receipts received from persons 71598
that are not members of the group. 71599

(2) Gross receipts related to the sale or transmission of 71600
electricity through the use of an intermediary regional 71601
transmission organization approved by the federal energy 71602
regulatory commission shall be excluded from taxable gross 71603
receipts under division (C)(1) of this section if all other 71604
requirements of that division are met, even if the receipts are 71605
from and to the same member of the group. 71606

(D) To make the election to be a consolidated elected 71607
taxpayer, a group of persons shall apply to the tax commissioner 71608

and pay the commissioner a registration fee equal to the lesser of 71609
two hundred dollars or twenty dollars for each person in the 71610
group. No additional fee shall be imposed for the addition of new 71611
members to the group once the group has remitted a fee in the 71612
amount of two hundred dollars. The application shall be filed and 71613
the fee paid before the later of the beginning of the first 71614
calendar quarter to which the election applies or November 15, 71615
2005. The fee shall be collected and used in the same manner as 71616
provided in section 5751.04 of the Revised Code. 71617

The election shall be made on a form prescribed by the tax 71618
commissioner for that purpose and shall be signed by one or more 71619
individuals with authority, separately or together, to make a 71620
binding election on behalf of all persons in the group. The tax 71621
commissioner shall approve a group's election if the group 71622
satisfies the requirements of division (A) of this section. 71623

Any person acquired or formed after the filing of the 71624
registration shall be included in the group if the person meets 71625
the requirements of division (A)(1) of this section, and the group 71626
shall notify the tax commissioner of any additions to the group 71627
with the next tax return it files with the commissioner. 71628

(E) Each member of a consolidated elected taxpayer is jointly 71629
and severally liable for the tax imposed by this chapter and any 71630
penalties or interest thereon. The tax commissioner may require 71631
one person in the group to be the taxpayer for purposes of 71632
registration and remittance of the tax, but all members of the 71633
group are subject to assessment under section 5751.09 of the 71634
Revised Code. 71635

Sec. 5751.012. (A) All persons, other than persons enumerated 71636
in divisions (E)(2) to (10) of section 5751.01 of the Revised 71637
Code, having more than fifty per cent of the value of their 71638
ownership interest owned or controlled, directly or constructively 71639

through related interests, by common owners during all or any 71640
portion of the tax period, together with the common owners, shall 71641
be members of a combined taxpayer if those persons are not members 71642
of a consolidated elected taxpayer pursuant to an election under 71643
section 5751.011 of the Revised Code. 71644

(B) A combined taxpayer shall register, file returns, and pay 71645
taxes under this chapter as a single taxpayer. 71646

(C) A combined taxpayer shall neither exclude taxable gross 71647
receipts between its members nor from others that are not members. 71648

(D) A combined taxpayer shall pay to the tax commissioner a 71649
registration fee equal to the lesser of two hundred dollars or 71650
twenty dollars for each person in the group. No additional fee 71651
shall be imposed for the addition of new members to the group once 71652
the group has remitted a fee in the amount of two hundred dollars. 71653
The fee shall be timely paid before the later of the beginning of 71654
the first calendar quarter to which the election applies or 71655
November 15, 2005. The fee shall be collected and used in the same 71656
manner as provided in section 5751.04 of the Revised Code. 71657

Any person acquired or formed after the filing of the 71658
registration shall be included in the group if the person meets 71659
the requirements of division (A) of this section, and the group 71660
must notify the tax commissioner of any additions with the next 71661
quarterly tax return it files with the commissioner. 71662

(E) Each member of a combined taxpayer is jointly and 71663
severally liable for the tax imposed by this chapter and any 71664
penalties or interest thereon. The tax commissioner may require 71665
one person in the group to be the taxpayer for purposes of 71666
registration and remittance of the tax, but all members of the 71667
group are subject to assessment under section 5751.09 of the 71668
Revised Code. 71669

Sec. 5751.013. (A) Except as provided in division (B) of this section: 71670
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(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and 71672
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(2) In the case of an elected consolidated taxpayer or a combined taxpayer, the taxpayer shall include as taxable gross receipts situated to this state the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state. 71676
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(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter. 71682
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(C) The tax commissioner may adopt rules necessary to administer this section. 71690
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Sec. 5751.02. (A) For the purpose of funding the needs of this state and its local governments beginning with the tax period that commences July 1, 2005, and continuing for every tax period thereafter, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of engaging in this state in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during the calendar year. Such persons include, but are 71692
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not limited to, persons with substantial nexus with this state. 71700
The tax imposed under this section is not a transactional tax and 71701
is not subject to Public Law No. 86-272, 73 Stat. 555. The tax 71702
imposed under this section is in addition to any other taxes or 71703
fees imposed under the Revised Code. The tax levied under this 71704
section is imposed on the person receiving the gross receipts and 71705
is not a tax imposed directly on a purchaser. 71706

(B) The tax imposed by this section is a tax on the taxpayer 71707
and shall not be billed or invoiced to another person. Even if the 71708
tax or any portion thereof is billed or invoiced and separately 71709
stated, such amounts remain part of the price for purposes of the 71710
sales and use taxes levied under Chapters 5739. and 5741. of the 71711
Revised Code. Nothing in division (B) of this section prohibits a 71712
person from including in the price charged for a good or service 71713
an amount sufficient to recover the tax imposed by this section. 71714

Sec. 5751.03. (A) Except as provided in division (B) of this 71715
section and in section 5751.031 of the Revised Code, the tax 71716
levied under this section for each tax period shall be the product 71717
of two and six-tenths mills per dollar times the remainder of the 71718
taxpayer's taxable gross receipts for the tax period after 71719
subtracting the exclusion amount provided for in division (C) of 71720
this section. 71721

(B) Notwithstanding division (C) of this section, the tax on 71722
the first one million dollars in taxable gross receipts each 71723
calendar year shall be one hundred dollars. For calendar year 71724
2006, the tax imposed under this division shall be paid not later 71725
than May 10, 2006, by both calendar year taxpayers and calendar 71726
quarter taxpayers. For calendar year 2007 and thereafter, the tax 71727
imposed under this division shall be paid with the fourth-quarter 71728
tax return or annual tax return for the prior calendar year by 71729

both calendar year taxpayers and calendar quarter taxpayers. 71730

(C)(1) Each calendar quarter taxpayer may exclude the first 71731
two hundred fifty thousand dollars of taxable gross receipts for a 71732
calendar quarter and may carry forward and apply any unused 71733
exclusion amount to the three subsequent calendar quarters. Each 71734
calendar year taxpayer may exclude the first one million dollars 71735
of taxable gross receipts for a calendar year. 71736

(2) A taxpayer switching from a calendar year tax period to a 71737
calendar quarter tax period may, for the first quarter of the 71738
change, apply the prior calendar quarter exclusion amounts to the 71739
first calendar quarter return the taxpayer files that calendar 71740
year. The tax rate shall be based on the rate imposed that 71741
calendar quarter when the taxpayer switches from a calendar year 71742
to a calendar quarter tax period. 71743

Sec. 5751.031. This section applies only to calendar quarter 71744
taxpayers. The tax imposed per calendar quarter under division (A) 71745
of section 5751.03 of the Revised Code shall be computed as 71746
follows: 71747

(A) From January 1, 2006, to March 31, 2006, by multiplying 71748
the tax otherwise due under that division by twenty-three per 71749
cent; 71750

(B) From April 1, 2006, to March 31, 2007, by multiplying the 71751
tax otherwise due under that division by forty per cent; 71752

(C) From April 1, 2007, to March 31, 2008, by multiplying the 71753
tax otherwise due under that division by sixty per cent; 71754

(D) From April 1, 2008, to March 31, 2009, by multiplying the 71755
tax otherwise due under that division by eighty per cent; 71756

(E) After March 31, 2008, one hundred per cent of the tax due 71757
under that division. 71758

Sec. 5751.032. (A) From its inception through February 28, 2007, the commercial activity tax levied under this chapter is intended to generate six hundred seventy-seven million dollars. Not later than March 15, 2007, the tax commissioner shall provide a report to the general assembly reporting the total amount of tax paid under this chapter that was collected from the inception of the tax through February 28, 2007, and the adjustment in the rate of tax imposed under this chapter that would have been required to generate six hundred seventy-seven million dollars of tax from the inception of the tax through February 28, 2007. The tax commissioner, not later than March 15, 2007, shall certify the excess amount to the director of budget and management, who shall transfer the excess amount from the general revenue fund to the commercial activity tax reduction fund, which is hereby created in the state treasury.

(B) From March 1, 2008, through February 28, 2009, the commercial activity tax levied under this chapter is intended to generate one billion one hundred seven million dollars. Not later than March 15, 2009, the tax commissioner shall provide a report to the general assembly reporting the total amount of tax paid under this chapter that was collected during, the amount by which taxes were reduced during that period under division (E) of this section, and the adjustment in the rate of tax imposed under this chapter that would have been required to generate the sum of those amounts. If the sum of such amounts exceeds one billion one hundred seven million dollars, the tax commissioner, not later than March 31, 2009, shall certify the excess amount to the director of budget and management, who shall transfer the excess amount from the general revenue fund to the commercial activity tax reduction fund between the first and fifteenth day of October.

(C) During fiscal year 2010, the commercial activity tax

levied under this chapter is intended to generate one billion five hundred forty-eight million dollars. Not later than September 30, 2010, the tax commissioner shall provide a report to the general assembly reporting the total amount of tax paid under this chapter that was collected during fiscal year 2010, the amount by which taxes were reduced during that period under division (E) of this section, and the adjustment in the rate of tax imposed under this chapter that would have been required to generate the sum of those amounts. If the sum of such amounts exceeds one billion five hundred forty-eight million dollars, the tax commissioner, not later than September 30, 2010, shall certify the excess amount to the director of budget and management, who shall transfer the excess amount from the general revenue fund to the commercial activity tax reduction fund between the first and fifteenth day of October.

(D) During fiscal year 2011 and each succeeding fiscal year, the commercial activity tax levied under this chapter is intended to generate one billion five hundred ninety-four million dollars. Not later than the thirtieth day of September each fiscal year beginning in fiscal year 2012, the tax commissioner shall provide a report to the general assembly reporting the total amount of tax paid under this chapter that was collected during the preceding fiscal year, the amount by which taxes were reduced during that period under division (E) of this section, and the adjustment in the rate of tax imposed under this chapter that would have been required to generate the sum of those amounts. If the sum of such amounts exceeds one billion five hundred ninety-four million dollars, the tax commissioner, not later than the thirtieth day of September of the current fiscal year, shall certify the excess amount to the director of budget and management, who shall transfer the excess amount from the general revenue fund to the commercial activity tax reduction fund between the first and

fifteenth day of October.

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(E) All money credited to the commercial activity tax reduction fund in any year, including all investment earnings on balances in the fund, shall be applied to reduce the rate of tax imposed under section 5751.03 of the Revised Code as provided in this division. Each year after making the transfer under division (A), (B), (C), or (D) of this section, the director of budget and management shall compute the percentage that the excess amount transferred under that division is of the intended revenue amount for the fiscal year in which the transfer is made, and certify that amount to the tax commissioner. The tax rate imposed under section 5751.03 of the Revised Code for the tax year beginning on the first day of January in the fiscal year in which the transfer is made shall be reduced by the percentage certified by the director. The tax commissioner shall 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 commissioner shall publish the revised rate by journal entry and provide notice to taxpayers of the revised rate.

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(F) Before the last day of March, June, September, and December of each tax year in which the rate of tax imposed by section 5751.03 of the Revised Code is reduced under division (E) of this section, the director of budget and management shall transfer from the commercial activity tax reduction fund to the general revenue fund one-fourth of the excess amount transferred under division (A), (B), (C), or (D) of this section, as applicable, in October of the preceding calendar year.

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Sec. 5751.033. For the purposes of this chapter, gross receipts shall be sitused to this state as follows:

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(A) Gross rents and royalties from real property located in this state shall be sitused to this state.

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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. 71853
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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. 71856
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(D) Gross receipts from the sale of real property located in this state shall be sitused to this state. 71860
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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. For purposes of this section, the phrase "delivery of tangible personal property by common carrier or by other means of transportation" includes the situation in which a purchaser accepts the property in this state and then transports the property directly or by other means to a location outside this state. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 71862
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(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be sitused to 71881
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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 sitused to this state to the extent the receipts are based on the right to use the property in this state. 71884
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(G) Gross receipts from the sale of transportation services by a common or contract carrier shall be sitused to this state in proportion to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways in this state to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways everywhere. With prior written approval of the tax commissioner, a common or contract carrier may use an alternative situsing procedure for transportation services. 71892
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(H) Gross receipts from dividends, interest, and other sources of income from financial instruments described in division (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 5733.056 of the Revised Code shall be sitused to this state in accordance with the situsing provisions set forth in those divisions. When applying the provisions of divisions (F)(6), (8), and (13) of section 5733.056 of the Revised Code, "gross receipts" shall be substituted for "net gains" wherever "net gains" appears in those divisions. Nothing in this division limits or modifies the exclusions enumerated in divisions (E) and (F)(2) of section 5751.01 of the Revised Code. The tax commissioner may promulgate rules to further specify the manner in which to situs gross receipts subject to this division. 71901
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(I) Gross receipts from the sale of all other services, and all other gross receipts not otherwise sitused under this section, 71914
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shall be sitused to this state in the proportion that the 71916
purchaser's benefit in this state with respect to what was 71917
purchased bears to the purchaser's benefit everywhere with respect 71918
to what was purchased. The physical location where the purchaser 71919
ultimately uses or receives the benefit of what was purchased 71920
shall be paramount in determining the proportion of the benefit in 71921
this state to the benefit everywhere. 71922

(J) If the situsing provisions of divisions (A) to (H) of 71923
this section do not fairly represent the extent of a person's 71924
activity in this state, the person may request, or the tax 71925
commissioner may require or permit, an alternative method. Such 71926
request by a person must be made within the applicable statute of 71927
limitations set forth in this chapter. 71928

(K) The tax commissioner may adopt rules to provide 71929
additional guidance to the application of this section, and 71930
provide alternative methods of situsing gross receipts that apply 71931
to all persons, or subset of persons, that are engaged in similar 71932
business or trade activities. 71933

Sec. 5751.04. (A) Not later than the later of November 15, 71934
2005, or thirty days after a person first has more than forty 71935
thousand dollars in taxable gross receipts in a calendar year, 71936
each person subject to this chapter shall register with the tax 71937
commissioner on the form prescribed by the commissioner. The form 71938
shall include the following: 71939

(1) The person's name; 71940

(2) If applicable, the name of the state or country under the 71941
laws of which the person is incorporated; 71942

(3) If applicable, the location of a person's principal 71943
office, and, in the case of a foreign corporation, the location of 71944
its principal place of business in this state and the name and 71945

address of the officer or agent of the corporation in charge of 71946
the business in this state; 71947

(4) If applicable, the names of the person's president, 71948
secretary, treasurer, and statutory agent designated pursuant to 71949
section 1703.041 of the Revised Code, with the post office address 71950
of each; 71951

(5) The kind of business in which the person is engaged, 71952
including applicable business or industry codes; 71953

(6) The date of the beginning of the person's annual 71954
accounting period that includes the first day of January of the 71955
taxable calendar year; 71956

(7) If the person is not a corporation or a sole proprietor, 71957
the names of all the person's owners and officers; 71958

(8) The person's federal employer identification number or 71959
numbers or, if those are not applicable, the person's social 71960
security number or equivalent; 71961

(9) All other information that the commissioner requires to 71962
administer and enforce this chapter. 71963

(B) Except as otherwise provided in this division, each 71964
person registering with the tax commissioner as required by 71965
division (A) of this section shall pay a registration fee. The fee 71966
shall be in the amount of fifteen dollars if a person registers 71967
electronically and twenty dollars if a person does not register 71968
electronically. The registration fee shall be paid in the manner 71969
prescribed by the tax commissioner at the same time the 71970
registration is due if a person is subject to the tax imposed 71971
under this chapter before January 1, 2006. If a person first 71972
becomes subject to the tax after that date, the registration fee 71973
is payable with the first tax period return the person is required 71974
to file as prescribed by section 5751.05 of the Revised Code. If a 71975

registration fee is not paid when due, an additional fee is 71976
imposed in the amount of one hundred dollars per month or part 71977
thereof the fee is outstanding, not to exceed one thousand 71978
dollars. The tax commissioner may abate the additional fee. The 71979
fee imposed under this division may be assessed in the same manner 71980
as the tax imposed under this chapter. Proceeds from the fee shall 71981
be credited to the commercial activity tax administrative fund, 71982
which is hereby created in the state treasury for the commissioner 71983
to use in implementing and administering the tax imposed under 71984
this chapter. 71985

No registration fee is payable by a person for a calendar 71986
year if the person first begins business operations in this state 71987
after the thirtieth day of November of that calendar year or if 71988
the person's taxable gross receipts for the calendar year exceed 71989
forty thousand dollars but do not exceed forty thousand dollars as 71990
of the first day of December of the calendar year. 71991

Registration fees paid under this section, excluding any 71992
additional fee imposed for late payment of the registration fee, 71993
shall be credited against the first payment of tax payable under 71994
section 5751.03 of the Revised Code after the registration fee is 71995
paid. 71996

(C) If a person that has registered under this section is no 71997
longer a taxpayer subject to this chapter, including no longer 71998
being a taxpayer because of the application of division (E)(1) of 71999
section 5751.01 of the Revised Code, the person shall notify the 72000
commissioner that the person's registration should be cancelled. 72001

Sec. 5751.05. (A) If a person subject to this chapter 72002
anticipates that the person's taxable gross receipts will be less 72003
than one million dollars in calendar year 2006, the person may 72004
elect to be a calendar year taxpayer. If a person is not required 72005
to be registered under this section for calendar year 2006 and 72006

anticipates that the person's taxable gross receipts will be less 72007
than one million dollars in the first calendar year the person is 72008
required to register under this section, the person may elect to 72009
be a calendar year taxpayer. 72010

(B) Any person that is a calendar year taxpayer pursuant to 72011
an election under division (A) of this section shall become a 72012
calendar quarter taxpayer in the subsequent calendar year if the 72013
person's taxable gross receipts for the prior calendar year are 72014
one million dollars or more, and shall remain a calendar quarter 72015
taxpayer until the person notifies the tax commissioner, and 72016
receives approval in writing from the tax commissioner, to switch 72017
back to being a calendar year taxpayer. Nothing in this division 72018
prohibits a person that has elected to be a calendar year taxpayer 72019
from notifying the tax commissioner, using the procedures 72020
prescribed by the commissioner, that it is switching back to being 72021
a calendar quarter taxpayer. 72022

(C) Any taxpayer that is not a calendar year taxpayer 72023
pursuant to this section is a calendar quarter taxpayer. The tax 72024
commissioner may grant written approval for a calendar quarter 72025
taxpayer to use an alternative reporting schedule or estimate the 72026
amount of tax due for a calendar quarter if the taxpayer 72027
demonstrates to the commissioner the need for such a deviation. 72028
The commissioner may adopt a rule to apply division (C) of this 72029
section to a group of taxpayers without the taxpayers having to 72030
receive written approval from the commissioner. 72031

Sec. 5751.051. (A)(1) Not later than forty days after the end 72032
of each calendar quarter, every taxpayer other than a calendar 72033
year taxpayer shall file with the tax commissioner a tax return in 72034
such form as the commissioner prescribes. The return shall 72035
include, but is not limited to, the amount of the taxpayer's 72036

taxable gross receipts for the calendar quarter and shall indicate 72037
the amount of tax due under section 5751.03 of the Revised Code 72038
for the calendar quarter. 72039

(2) Not later than forty days after the end of each calendar 72040
year, every calendar year taxpayer shall file with the tax 72041
commissioner a tax return in such form as the commissioner 72042
prescribes. The return shall include, but is not limited to, the 72043
amount of the taxpayer's taxable gross receipts for the calendar 72044
year and shall indicate the amount of tax due under section 72045
5751.03 of the Revised Code for the calendar year. 72046

(B) A person that first becomes subject to this chapter 72047
during a calendar quarter on or after January 1, 2006, shall pay 72048
the minimum tax imposed under division (B) of section 5751.03 of 72049
the Revised Code along with the registration fee imposed under 72050
this section on or before the day the return is required to be 72051
filed for that quarter under division (A)(1) of this section, 72052
regardless of whether the person elects to be a calendar year 72053
taxpayer under section 5751.04 of the Revised Code. 72054

The amount of the minimum tax shall be reduced to fifty 72055
dollars if the registration is timely filed after the first day of 72056
May and before the first day of December of the calendar year. 72057

Sec. 5751.06. (A) Any taxpayer that fails to file a return or 72058
pay the full amount of the tax due within the period prescribed 72059
therefor under this chapter shall pay a penalty in an amount not 72060
exceeding the greater of fifty dollars or ten per cent of the tax 72061
required to be paid for the tax period. 72062

(B)(1) If any additional tax is found to be due, the tax 72063
commissioner may impose an additional penalty of up to fifteen per 72064
cent on the additional tax found to be due. 72065

(2) Any delinquent payments of the tax made after a taxpayer 72066

is notified of an audit or a tax discrepancy by the commissioner 72067
is subject to the penalty imposed by division (B) of this section. 72068
If an assessment is issued under section 5751.10 of the Revised 72069
Code in connection with such delinquent payments, the payments 72070
shall be credited to the assessment. 72071

(C) After calendar year 2008, the tax commissioner may impose 72072
an additional penalty against a taxpayer that fails to switch to 72073
being a calendar quarter taxpayer at the time it had over two 72074
million in taxable gross receipts in the calendar year, as 72075
required under section 5751.04 of the Revised Code. The penalty 72076
may be imposed in an amount not to exceed ten per cent of the tax 72077
due above two million dollars in taxable gross receipts for the 72078
calendar year. Any penalty imposed under this division is in 72079
addition to any other penalties imposed under this section. 72080

(D) If the tax commissioner notifies a person required to 72081
register under section 5751.05 of the Revised Code of such 72082
requirement and of the requirement to remit the tax due under this 72083
chapter, and the person fails to so register and remit the tax 72084
within sixty days after such notice, the tax commissioner may 72085
impose an additional penalty of up to thirty-five per cent of the 72086
tax due. The penalty imposed under this division is in addition to 72087
any other penalties imposed under this section. 72088

(E) The tax commissioner may collect any penalty or interest 72089
imposed by this section in the same manner as the tax imposed 72090
under this chapter. Penalties and interest so collected shall be 72091
considered as revenue arising from the tax imposed under this 72092
chapter. 72093

(F) The tax commissioner may abate all or a portion of any 72094
penalties imposed under this section and may adopt rules governing 72095
such abatements. 72096

(G) If any tax due is not timely paid in accordance with this 72097

chapter, the taxpayer shall pay interest, calculated at the rate 72098
per annum prescribed by section 5703.47 of the Revised Code, from 72099
the date the tax payment was due to the date of payment or to the 72100
date an assessment was issued, whichever occurs first. 72101

Sec. 5751.07. (A) Any person required to file returns for a 72102
calendar quarter shall remit each tax payment, and, if required by 72103
the tax commissioner, file the tax return or the annual report, 72104
electronically. The commissioner may require taxpayers to use the 72105
Ohio business gateway as defined in section 718.051 of the Revised 72106
Code to file returns and remit the tax, or may provide another 72107
means for taxpayers to file and remit the tax electronically. 72108

(B) A person required by this section to remit taxes or file 72109
returns electronically may apply to the tax commissioner, on the 72110
form prescribed by the commissioner, to be excused from that 72111
requirement. The commissioner may excuse a person from the 72112
requirements of this division for good cause. 72113

(C)(1) If a person required to remit taxes or file a return 72114
electronically under this section fails to do so, the commissioner 72115
may impose a penalty not to exceed the following: 72116

(a) For either of the first two calendar quarters the person 72117
so fails, five per cent of the amount of the payment that was 72118
required to be remitted; 72119

(b) For the third and any subsequent calendar quarters the 72120
person so fails, ten per cent of the amount of the payment that 72121
was required to be remitted. 72122

(2) The penalty imposed under division (C)(1) of this section 72123
is in addition to any other penalty imposed under this chapter and 72124
shall be considered as revenue arising from the tax imposed under 72125
this chapter. A penalty may be collected by assessment in the 72126
manner prescribed by section 5751.09 of the Revised Code. The tax 72127

commissioner may abate all or a portion of such a penalty. 72128

Sec. 5751.08. (A) An application for refund to the taxpayer 72129
of the amount of taxes imposed under this chapter that are 72130
overpaid, paid illegally or erroneously, or paid on any illegal or 72131
erroneous assessment shall be filed with the tax commissioner, on 72132
the form prescribed by the commissioner, within four years after 72133
the date of the illegal or erroneous payment of the tax. The 72134
applicant shall provide the amount of the requested refund along 72135
with the claimed reasons for, and documentation to support, the 72136
issuance of a refund. 72137

(B) On the filing of the refund application, the tax 72138
commissioner shall determine the amount of refund to which the 72139
applicant is entitled. If the amount is not less than that 72140
claimed, the commissioner shall certify the amount to the director 72141
of budget and management and treasurer of state for payment from 72142
the tax refund fund created under section 5703.052 of the Revised 72143
Code. If the amount is less than that claimed, the commissioner 72144
shall proceed in accordance with section 5703.70 of the Revised 72145
Code. 72146

(C) Interest on a refund applied for under this section, 72147
computed at the rate provided for in section 5703.47 of the 72148
Revised Code, shall be allowed from the later of the date the tax 72149
was paid or when the tax payment was due. 72150

(D) A calendar quarter taxpayer with more than one million 72151
dollars in taxable gross receipts in a calendar year other than 72152
calendar year 2005 and that is not able to exclude one million 72153
dollars in taxable gross receipts because of the operation of the 72154
taxpayer's business in that calendar year may file for a refund 72155
under this section to obtain the full exclusion of one million 72156
dollars in taxable gross receipts for that calendar year. 72157

(E) No person with an active registration as a taxpayer under this chapter may claim a refund under this section for the tax imposed under division (B) of section 5751.03 of the Revised Code unless the person cancelled the registration before the tenth day of February of the current calendar year pursuant to division (C) of section 5751.04 of the Revised Code. 72158
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(F) Except as provided in section 5751.091 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax year the amount of any refund due the taxpayer under this chapter for a preceding tax year. 72164
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Sec. 5751.081. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, unpaid fee payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, incorrect medical assistance payments under section 5111.02 of the Revised Code, or any unpaid charge, penalty, or interest arising from any of the foregoing. 72169
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If a taxpayer entitled to a refund under section 5751.08 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. This section applies only to debts that have become final. For the purposes of this section, a debt becomes final when, under the 72180
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applicable law, any time provided for petition for reassessment, 72189
request for reconsideration, or other appeal of the legality or 72190
validity of the amount giving rise to the debt expires without an 72191
appeal having been filed in the manner provided by law. 72192

Sec. 5751.09. (A) The tax commissioner may make an 72193
assessment, based on any information in the commissioner's 72194
possession, against any person that fails to file a return or pay 72195
any tax as required by this chapter. The commissioner shall give 72196
the person assessed written notice of the assessment as provided 72197
in section 5703.37 of the Revised Code. With the notice, the 72198
commissioner shall provide instructions on the manner in which to 72199
petition for reassessment and request a hearing with respect to 72200
the petition. 72201

(B) Unless the person assessed, within sixty days after 72202
service of the notice of assessment, files with the tax 72203
commissioner, either personally or by certified mail, a written 72204
petition signed by the person or the person's authorized agent 72205
having knowledge of the facts, the assessment becomes final, and 72206
the amount of the assessment is due and payable from the person 72207
assessed to the treasurer of state. The petition shall indicate 72208
the objections of the person assessed, but additional objections 72209
may be raised in writing if received by the commissioner prior to 72210
the date shown on the final determination. 72211

If a petition for reassessment has been properly filed, the 72212
commissioner shall proceed under section 5703.60 of the Revised 72213
Code. 72214

(C)(1) After an assessment becomes final, if any portion of 72215
the assessment, including accrued interest, remains unpaid, a 72216
certified copy of the tax commissioner's entry making the 72217
assessment final may be filed in the office of the clerk of the 72218
court of common pleas in the county in which the person resides or 72219

has its principal place of business in this state, or in the 72220
office of the clerk of court of common pleas of Franklin county. 72221

(2) Immediately upon the filing of the entry, the clerk shall 72222
enter judgment for the state against the person assessed in the 72223
amount shown on the entry. The judgment may be filed by the clerk 72224
in a loose-leaf book entitled, "special judgments for the 72225
commercial activity tax" and shall have the same effect as other 72226
judgments. Execution shall issue upon the judgment at the request 72227
of the tax commissioner, and all laws applicable to sales on 72228
execution shall apply to sales made under the judgment. 72229

(3) The portion of the assessment not paid within sixty days 72230
after the day the assessment was issued shall bear interest at the 72231
rate per annum prescribed by section 5703.47 of the Revised Code 72232
from the day the tax commissioner issues the assessment until it 72233
is paid. Interest shall be paid in the same manner as the tax and 72234
may be collected by the issuance of an assessment under this 72235
section. 72236

(D) If the tax commissioner believes that collection of the 72237
tax will be jeopardized unless proceedings to collect or secure 72238
collection of the tax are instituted without delay, the 72239
commissioner may issue a jeopardy assessment against the person 72240
liable for the tax. Immediately upon the issuance of the jeopardy 72241
assessment, the commissioner shall file an entry with the clerk of 72242
the court of common pleas in the manner prescribed by division (C) 72243
of this section. Notice of the jeopardy assessment shall be served 72244
on the person assessed or the person's authorized agent in the 72245
manner provided in section 5703.37 of the Revised Code within five 72246
days of the filing of the entry with the clerk. The total amount 72247
assessed is immediately due and payable, unless the person 72248
assessed files a petition for reassessment in accordance with 72249
division (B) of this section and provides security in a form 72250
satisfactory to the commissioner and in an amount sufficient to 72251

satisfy the unpaid balance of the assessment. Full or partial 72252
payment of the assessment does not prejudice the commissioner's 72253
consideration of the petition for reassessment. 72254

(E) The tax commissioner shall immediately forward to the 72255
treasurer of state all amounts the commissioner receives under 72256
this section, and such amounts shall be considered as revenue 72257
arising from the tax imposed under this chapter. 72258

(F) Except as otherwise provided in this division, no 72259
assessment shall be made or issued against a taxpayer for the tax 72260
imposed under this chapter more than four years after the due date 72261
for the filing of the return for the tax period for which the tax 72262
was reported, or more than four years after the return for the tax 72263
period was filed, whichever is later. Nothing in this division 72264
bars an assessment against a taxpayer that fails to file a return 72265
required by this chapter or that files a fraudulent return. 72266

(G) If the tax commissioner possesses information that 72267
indicates that the amount of tax a taxpayer is required to pay 72268
under this chapter exceeds the amount the taxpayer paid, the tax 72269
commissioner may audit a sample of the taxpayer's sales or 72270
receipts over a representative period of time to ascertain the 72271
amount of tax due, and may issue an assessment based on the audit. 72272
The tax commissioner shall make a good faith effort to reach 72273
agreement with the taxpayer in selecting a representative sample. 72274
The tax commissioner may apply a sampling method only if the 72275
commissioner has prescribed the method by rule. 72276

(H) If the whereabouts of a person subject to this chapter is 72277
not known to the tax commissioner, the secretary of state is 72278
hereby deemed to be that person's agent for purposes of service of 72279
process of notice of any assessment, action, or proceedings 72280
instituted in this state against the person under this chapter. 72281
Such process or notice shall be served on such person by the 72282

commissioner or by one of the commissioner's agents by leaving at 72283
the office of the secretary of state, at least fifteen days before 72284
the return day of such process or notice, a true and attested copy 72285
of the notice, and by sending to such person by ordinary mail, 72286
with an endorsement thereon of the service upon the secretary of 72287
state, addressed to such person at the person's last known 72288
address. 72289

Sec. 5751.10. If any person liable for the tax imposed under 72290
this chapter sells the trade or business, disposes in any manner 72291
other than in the regular course of business at least seventy-five 72292
per cent of assets of the trade or business, or quits the trade or 72293
business, any tax owed by such person shall become due and payable 72294
immediately, and the person shall pay the tax under this section, 72295
including any applicable penalties and interest, within fifteen 72296
days after the date of selling or quitting the trade or business. 72297
The person's successor shall withhold a sufficient amount of the 72298
purchase money to cover the amount due and unpaid until the former 72299
owner produces a receipt from the tax commissioner showing that 72300
the amounts are paid or a certificate indicating that no taxes are 72301
due. If a purchaser fails to withhold purchase money, that person 72302
is personally liable up to the purchase money amount, for such 72303
amounts that are unpaid during the operation of the business by 72304
the former owner. 72305

The tax commissioner may adopt rules regarding the issuance 72306
of certificates under this section, including the waiver of the 72307
need for a certificate if certain criteria are met. 72308

Sec. 5751.11. (A) If any person subject to this chapter fails 72309
to report or pay the tax as required under this chapter, or fails 72310
to pay any penalty imposed under this chapter within ninety days 72311
after the time prescribed for payment of the penalty, the tax 72312

commissioner shall provide such person at least thirty days' 72313
notice either personally or by certified mail of the 72314
commissioner's intent to revoke the person's registration under 72315
section 5751.04 of the Revised Code. The revocation shall be 72316
stayed if the taxpayer objects, in writing, to the revocation 72317
within thirty days from the receipt of the notice of revocation. 72318
It shall be unlawful for such person to engage in business in this 72319
state after such registration is revoked. A final determination 72320
revoking a registration shall be served in the manner provided by 72321
section 5703.37 of the Revised Code. The commissioner's final 72322
determination may be appealed to the board of tax appeals pursuant 72323
to section 5717.02 of the Revised Code. The revocation shall 72324
become effective immediately upon the expiration of all time 72325
limits for appeal. The commissioner shall certify the revocation 72326
to the secretary of state. 72327

(B) Upon receiving notification of the commissioner's 72328
revocation under division (A) of this section, the secretary of 72329
state shall: 72330

(1) Cancel the articles of incorporation of any corporation 72331
that is organized under the laws of the state by appropriate entry 72332
upon the margin thereof; 72333

(2) Cancel by proper entry the certificate of authority of 72334
any foreign corporation to do business in this state; 72335

(3) Cancel the registration of a domestic limited liability 72336
partnership by making a notation of the cancellation on the 72337
secretary of state's records of those persons that are the subject 72338
of the revocation. 72339

Upon a cancellation under division (B) of this section, all 72340
the powers, privileges, and franchises conferred upon a 72341
corporation by its articles of incorporation or conferred upon a 72342

foreign corporation by its certificate of authority, and all 72343
powers and privileges of a registered domestic limited liability 72344
partnership cease, subject to Title XVII of the Revised Code. 72345

Upon making a cancellation under division (B) of this 72346
section, the secretary of state shall immediately notify such 72347
domestic or foreign corporation or domestic limited liability 72348
partnership of the action taken by the secretary of state, and 72349
shall forward for filing a certification of the action to the 72350
county recorder of the county in which the principal place of 72351
business of the corporation or partnership in this state is 72352
located. No fee shall be charged by the county recorder for the 72353
filing. 72354

(C) No person shall exercise or attempt to exercise any 72355
powers, privileges, or franchises under its articles of 72356
incorporation or its certificate of authority, whichever the case 72357
may be, after its articles or certificate is canceled for failure 72358
to make a report or return or to pay any tax or fee under this 72359
chapter. 72360

(D) A person whose registration has been revoked under this 72361
section may not reregister for a new registration under section 72362
5751.04 of the Revised Code unless and until all applicable taxes, 72363
penalties, and interest are paid. In addition, no individual 72364
having a ten per cent or greater direct or constructive ownership 72365
interest in such person may reregister as an owner of a trade or 72366
business registering under section 5751.04 of the Revised Code 72367
unless and until all applicable taxes, penalties, and interest are 72368
paid. 72369

(E) Upon a corporation's or partnership's paying any fees 72370
required by the secretary of state and filing with the secretary 72371
of state a certificate from the tax commissioner specifying that 72372
it has complied with all the requirements of this chapter and has 72373

paid all applicable taxes, penalties, and interest, the secretary 72374
of state shall cancel the entry of cancellation of the 72375
corporation's or partnership's rights, privileges, and franchises. 72376

Sec. 5751.12. The tax commissioner may prescribe requirements 72377
for the keeping of records and other pertinent documents, the 72378
filing of copies of federal income tax returns and determinations, 72379
and computations reconciling federal income tax returns with the 72380
returns and reports required by section 5751.05 of the Revised 72381
Code. The commissioner may require any person, by rule or notice 72382
served on that person, to keep those records that the commissioner 72383
considers necessary to show whether, and the extent to which, a 72384
person is subject to this chapter. Those records and other 72385
documents shall be open during business hours to the inspection of 72386
the commissioner, and shall be preserved for a period of four 72387
years unless the commissioner, in writing, consents to their 72388
destruction within that period, or by order requires that they be 72389
kept longer. If such records are normally kept by the person 72390
electronically, the person shall provide such records to the 72391
commissioner electronically at the commissioner's request. 72392

Any information required by the tax commissioner under this 72393
chapter is confidential as provided for in section 5703.21 of the 72394
Revised Code. However, the commissioner shall make public an 72395
electronic list of all actively registered persons required to 72396
remit the tax under this chapter, including legal names, trade 72397
names, addresses, and account numbers. In addition, such list 72398
shall include all persons that cancelled their registration at any 72399
time during the preceding four calendar years, including the date 72400
the registration was cancelled. 72401

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 72402
the Revised Code: 72403

- (1) "School district," "joint vocational school district," "local taxing unit," "state education aid," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code. 72404
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- (2) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code. 72408
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- (3) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section. 72411
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- (4) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section. 72413
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- (5) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section. 72415
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- (6) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section. 72417
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- (7) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section. 72419
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- (8) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section. 72421
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- (9) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, and the furniture and fixtures fixed-rate levy loss. 72423
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- (10) "Fixed-sum levy loss" means the amount determined under division (E) of this section. 72427
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- (11) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code. 72429
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- (12) "Inventory" means personal property subject to the 72432

assessment rate specified in division (E) of section 5711.22 of 72433
the Revised Code. 72434

(13) "Furniture and fixtures" means personal property subject 72435
to the assessment rate specified in division (G) of section 72436
5711.22 of the Revised Code. 72437

(14) "Qualifying levies" are levies in effect for tax year 72438
2004 or applicable to tax year 2005 or approved at an election 72439
conducted before September 1, 2005, and first levied in tax year 72440
2006. 72441

(B) The commercial activities tax receipts fund is hereby 72442
created in the state treasury and shall consist of money arising 72443
from the tax imposed under this chapter. All money in that fund 72444
shall be credited for each fiscal year in the following 72445
percentages to the general revenue fund, to the school district 72446
tangible property tax replacement fund, which is hereby created in 72447
the state treasury for the purpose of making the payments 72448
described in section 5751.21 of the Revised Code, and to the local 72449
government tangible property tax replacement fund, which is hereby 72450
created in the state treasury for the purpose of making the 72451
payments described in section 5751.22 of the Revised Code, in the 72452
following percentages: 72453

<u>Fiscal year</u>	<u>General Revenue</u>	<u>School District</u>	<u>Local Government</u>	
	<u>Fund</u>	<u>Tangible</u>	<u>Tangible</u>	
		<u>Property Tax</u>	<u>Property Tax</u>	
		<u>Replacement Fund</u>	<u>Replacement Fund</u>	
<u>2006</u>	<u>67.7%</u>	<u>22.6%</u>	<u>9.7%</u>	72455
<u>2007</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	72456
<u>2008</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	72457
<u>2009</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	72458
<u>2010</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	72459
<u>2011</u>	<u>3.6%</u>	<u>67.5%</u>	<u>28.9%</u>	72460
<u>2012</u>	<u>9.5%</u>	<u>67.5%</u>	<u>23.0%</u>	72461

<u>2013</u>	<u>14.4%</u>	<u>67.5%</u>	<u>18.1%</u>	72462
<u>2014</u>	<u>17.7%</u>	<u>67.5%</u>	<u>14.8%</u>	72463
<u>2015</u>	<u>20.6%</u>	<u>67.5%</u>	<u>11.9%</u>	72464
<u>2016</u>	<u>24.0%</u>	<u>67.5%</u>	<u>8.5%</u>	72465
<u>2017</u>	<u>27.4%</u>	<u>67.5%</u>	<u>5.1%</u>	72466
<u>2018</u>	<u>30.8%</u>	<u>67.5%</u>	<u>1.7%</u>	72467
<u>2019 and</u> <u>thereafter</u>	<u>100%</u>	<u>0%</u>	<u>0%</u>	72468

(C) 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 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: 72469
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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 multiplied by: 72475
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(a) For tax year 2006, thirty-three and eight-tenths per cent; 72478
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(b) For tax year 2007, sixty-one and three-tenths per cent; 72480

(c) For tax year 2008, eighty-three per cent; 72481

(d) For tax year 2009 and thereafter, one hundred per cent. 72482

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by: 72483
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(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three; 72486
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(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three; 72489
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(c) For tax year 2008, a fraction, the numerator of which is 72491
thirteen and one-fourth and the denominator of which is 72492
twenty-three; 72493

(d) For tax year 2009 and thereafter a fraction, the 72494
numerator of which is seventeen and the denominator of which is 72495
twenty-three. 72496

(3) Furniture and fixtures property tax value loss is the 72497
taxable value of furniture and fixture property as reported by 72498
taxpayers for tax year 2004 multiplied by: 72499

(a) For tax year 2006, twenty-five per cent; 72500

(b) For tax year 2007, fifty per cent; 72501

(c) For tax year 2008, seventy-five per cent; 72502

(d) For tax year 2009 and thereafter, one hundred per cent. 72503

To facilitate the calculations required under division (C) of 72504
this section, the county auditor, upon request from the tax 72505
commissioner, shall provide by August 1, 2005, the values of 72506
machinery and equipment, inventory, and furniture and fixtures for 72507
all single-county personal property taxpayers for tax year 2004. 72508

(D) Not later than September 15, 2005, the tax commissioner 72509
shall determine for each tax year from 2006 through 2010 for each 72510
school district, joint vocational school district, and local 72511
taxing unit its machinery and equipment, inventory, and furniture 72512
and fixtures fixed-rate levy losses, which are the applicable 72513
amounts described in divisions (D)(1), (2), and (3) of this 72514
section: 72515

(1) The machinery and equipment fixed-rate levy loss is the 72516
machinery and equipment property tax value loss multiplied by the 72517
sum of the tax rates of fixed-rate qualifying levies. 72518

(2) The inventory fixed-rate loss is the inventory property 72519
tax value loss multiplied by the sum of the tax rates of 72520

fixed-rate qualifying levies. 72521

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 72522
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(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section: 72525
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(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. 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. 72531
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(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. 72547
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(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2010 under divisions (C)(1), (2), and (3) of this section. 72552
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(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions. 72556
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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 to be paid pursuant to division (D) of section 5751.21 or division (A)(2) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 72565
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(F) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, and furniture and fixtures property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, and furniture and fixtures property fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) 72575
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and (E) of this section shall separately display the levy loss for 72584
each levy eligible for reimbursement. 72585

(G) Not later than October 1, 2005, the tax commissioner 72586
shall certify the amount of the fixed-sum levy losses to the 72587
county auditor of each county in which a school district, joint 72588
vocational school district, or local taxing unit with a fixed-sum 72589
levy loss reimbursement has territory. 72590

Sec. 5751.21. (A) Not later than the thirty-first day of July 72591
of 2007 through 2017, the department of education shall determine 72592
the following for each school district and each joint vocational 72593
school district eligible for payment under division (B) of this 72594
section: 72595

(1) The state education aid offset, which is the difference 72596
obtained by subtracting the amount described in division (A)(1)(b) 72597
of this section from the amount described in division (A)(1)(a) of 72598
this section: 72599

(a) The state education aid computed for the school district 72600
or joint vocational school district for the current fiscal year as 72601
of the thirty-first day of July; 72602

(b) The state education aid that would be computed for the 72603
school district or joint vocational school district for the 72604
current fiscal year as of the thirty-first day of July if the 72605
recognized valuation included the machinery and equipment, 72606
inventory, and furniture and fixtures property tax value losses 72607
for the school district or joint vocational school district for 72608
the second preceding tax year. 72609

(2) The greater of zero or the difference obtained by 72610
subtracting the state education aid offset determined under 72611
division (A)(1) of this section from the sum of the machinery and 72612
equipment fixed-rate levy loss, the inventory fixed-rate levy 72613

loss, and furniture and fixtures fixed-rate levy loss certified 72614
under division (F) of section 5751.20 of the Revised Code for all 72615
taxing districts in each school district and joint vocational 72616
school district for the second preceding tax year. 72617

By the fifth day of August of each such year, the department 72618
of education shall certify the amount so determined under division 72619
(A)(1) of this section to the director of budget and management. 72620

(B) The department of education shall pay from the school 72621
district tangible property tax replacement fund to each school 72622
district and joint vocational school district all of the following 72623
for fixed-rate levy losses certified under division (F) of section 72624
5751.20 of the Revised Code: 72625

(1) On or before May 31, 2006, one-sixth of the total 72626
fixed-rate levy loss for tax year 2006; 72627

(2) On or before August 31, 2006, November 30, 2006, and 72628
February 28, 2007, one-third of five-sixths of the total 72629
fixed-rate levy loss for tax year 2006; 72630

(3) On or before May 31, 2007, one-sixth of the total 72631
fixed-rate levy loss for tax year 2007; 72632

(4) On or before August 31, 2007, November 30, 2007, and 72633
February 29, 2008, one-fourth of the amount determined under 72634
division (A)(2) of this section for fiscal year 2008, but not less 72635
than zero, plus one-third of five-sixths of the difference between 72636
the total fixed-rate levy loss for tax year 2007 and the total 72637
fixed-rate levy loss for tax year 2006. 72638

(5) On or before May 31, 2008, one-fourth of the amount 72639
determined under division (A)(2) of this section for fiscal year 72640
2008, but not less than zero, plus one-sixth of the difference 72641
between the total fixed-rate levy loss for tax year 2008 and the 72642
total fixed-rate levy loss for tax year 2006. 72643

(6) On or before August 31, 2008, November 30, 2008, and February 28, 2009, one-fourth of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-third of five-sixths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

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(7) On or before May 31, 2009, one-fourth of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-sixth of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

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(8) On or before August 31, 2009, November 30, 2009, and February 28, 2010, one-fourth of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-third of five-sixths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

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(9) On or before May 31, 2010, one-fourth of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-sixth of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

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(10) On or before August 31, 2010, November 30, 2010, February 28, 2011, and May 31, 2011, one-fourth of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero.

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(11) On or before August 31, 2011, November 30, 2011, February 29, 2012, and May 31, 2012, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is fourteen and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth.

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(12) On or before August 31, 2012, November 30, 2012, February 28, 2013, and May 31, 2013, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is eleven and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth. 72675
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(13) On or before August 31, 2013, November 30, 2013, February 28, 2014, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth. 72680
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(14) On or before August 31, 2014, November 30, 2014, February 28, 2015, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth. 72685
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(15) On or before August 31, 2015, November 30, 2015, February 29, 2016, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth. 72690
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(16) On or before August 31, 2016, November 30, 2016, February 28, 2017, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth. 72695
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(17) On or before August 31, 2017, November 30, 2017, February 28, 2018, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth. 72700
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(18) After May 31, 2018, no payments shall be made under this 72705

section. 72706

The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under division (F) of section 5751.20 of the Revised Code. 72707
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Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable. 72712
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(C) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (B) of this section. 72715
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(D)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (F) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-fourth of the fixed-sum levy loss so certified for each year on or before the last day of May, August, and November of the current year and of February of the following year. 72723
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(2) Beginning in 2006, by the first day of January of each 72737
year, the tax commissioner shall review the certification 72738
originally made under division (D)(1) of this section. If the 72739
commissioner determines that a debt levy that had been scheduled 72740
to be reimbursed in the current year has expired, a revised 72741
certification for that and all subsequent years shall be made to 72742
the department of education. 72743

(E) Beginning in September 2007 and through June 2018, the 72744
director of budget and management shall transfer from the school 72745
district tangible property tax replacement fund to the general 72746
revenue fund each of the following: 72747

(1) On the first day of September, the lesser of one-fourth 72748
of the amount certified for that fiscal year under division (A)(1) 72749
of this section or the balance in the school district tangible 72750
property tax replacement fund; 72751

(2) On the first day of December, the lesser of one-fourth of 72752
the amount certified for that fiscal year under division (A)(1) of 72753
this section or the balance in the school district tangible 72754
property tax replacement fund; 72755

(3) On the first day of March, the lesser of one-fourth of 72756
the amount certified for that fiscal year under division (A)(1) of 72757
this section or the balance in the school district tangible 72758
property tax replacement fund; 72759

(4) On the first day of June, the lesser of one-fourth of the 72760
amount certified for that fiscal year under division (A)(1) of 72761
this section or the balance in the school district tangible 72762
property tax replacement fund. 72763

(F) For each of the fiscal years 2006 through 2018, if the 72764
total amount in the school district tangible property tax 72765
replacement fund is insufficient to make all payments under 72766
divisions (B), (C), or (D) of this section at the times the 72767

payments are to be made, the director of budget and management 72768
shall transfer from the general revenue fund to the school 72769
district tangible property tax replacement fund the difference 72770
between the total amount to be paid and the amount in the school 72771
district tangible property tax replacement fund. For each fiscal 72772
year after 2018, at the time payments under division (D) of this 72773
section are to be made, the director of budget and management 72774
shall transfer from the general revenue fund to the school 72775
district property tax replacement fund the amount necessary to 72776
make such payments. 72777

(G) On the fifteenth day of June of 2006 through 2011, the 72778
director of budget and management may transfer any balance in the 72779
school district tangible property tax replacement fund to the 72780
general revenue fund. At the end of fiscal years 2012 through 72781
2018, any balance in the school district tangible property tax 72782
replacement fund shall remain in the fund to be used in future 72783
fiscal years for school purposes. 72784

(H) If all of the territory of a school district or joint 72785
vocational school district is merged with another district, or if 72786
a part of the territory of a school district or joint vocational 72787
school district is transferred to an existing or newly created 72788
district, the department of education, in consultation with the 72789
tax commissioner, shall adjust the payments made under this 72790
section as follows: 72791

(1) For a merger of two or more districts, the machinery and 72792
equipment, inventory, and furniture and fixture fixed-rate levy 72793
losses and the fixed-sum levy losses of the successor district 72794
shall be equal to the sum of the machinery and equipment, 72795
inventory, and furniture and fixtures fixed-rate levy losses as 72796
determined in section 5751.20 of the Revised Code, for each of the 72797
districts involved in the merger. 72798

(2) If property is transferred from one district to a 72799
previously existing district, the amount of machinery and 72800
equipment, inventory, and furniture and fixtures fixed-rate levy 72801
losses that shall be transferred to the recipient district shall 72802
be an amount equal to the total machinery and equipment, 72803
inventory, and furniture and fixtures fixed-rate levy losses times 72804
a fraction, the numerator of which is the value of business 72805
tangible personal property on the land being transferred in the 72806
most recent year for which data are available, and the denominator 72807
of which is the total value of business tangible personal property 72808
in the district from which the land is being transferred in the 72809
most recent year for which data are available. 72810

(3) After December 31, 2004, if property is transferred from 72811
one or more districts to a district that is newly created out of 72812
the transferred property, the newly created district shall be 72813
deemed not to have any machinery and equipment, inventory, or 72814
furniture and fixtures fixed-rate levy losses and the districts 72815
from which the property was transferred shall have no reduction in 72816
their machinery and equipment, inventory, and furniture and 72817
fixtures fixed-rate levy losses. 72818

(4) If the recipient district under division (H)(2) of this 72819
section or the newly created district under divisions (H)(3) of 72820
this section is assuming debt from one or more of the districts 72821
from which the property was transferred and any of the districts 72822
losing the property had fixed-sum levy losses, the department of 72823
education, in consultation with the tax commissioner, shall make 72824
an equitable division of the fixed-sum levy loss reimbursements. 72825

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 72826
commissioner shall compute the payments to be made to each local 72827
taxing unit for each year according to divisions (A)(1), (2), and 72828
(3) of this section, and shall distribute the payments in the 72829

manner prescribed by division (C) of this section. The calculation 72830
of the fixed-sum levy loss shall cover a time period sufficient to 72831
include all fixed-sum levies for which the commissioner 72832
determined, pursuant to division (E) of section 5751.20 of the 72833
Revised Code, that a fixed-sum levy loss is to be reimbursed. 72834

(1) Except as provided in division (A)(3) of this section, 72835
for machinery and equipment, inventory, and furniture and fixtures 72836
fixed-rate levy losses determined under division (D) of section 72837
5751.20 of the Revised Code, payments shall be made in an amount 72838
equal to each of those losses multiplied by the following: 72839

(a) For tax years 2006 through 2010, one hundred per cent; 72840

(b) For tax year 2011, a fraction, the numerator of which is 72841
fourteen and the denominator of which is seventeen; 72842

(c) For tax year 2012, a fraction, the numerator of which is 72843
eleven and the denominator of which is seventeen; 72844

(d) For tax year 2013, a fraction, the numerator of which is 72845
nine and the denominator of which is seventeen; 72846

(e) For tax year 2014, a fraction, the numerator of which is 72847
seven and the denominator of which is seventeen; 72848

(f) For tax year 2015, a fraction, the numerator of which is 72849
five and the denominator of which is seventeen; 72850

(g) For tax year 2016, a fraction, the numerator of which is 72851
three and the denominator of which is seventeen; 72852

(h) For tax year 2017, a fraction, the numerator of which is 72853
one and the denominator of which is seventeen; 72854

(i) For tax years 2018 and thereafter, no fixed-rate payments 72855
shall be made. 72856

Any qualifying levy that is a fixed-rate levy that is not 72857
applicable to a tax year after 2010 shall not qualify for any 72858

reimbursement after the tax year to which it is last applicable. 72859

(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. 72860
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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, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. 72864
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(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made. 72874
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(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. Beginning in May 2006, one-third of the amount certified under that division shall be paid by the last day of May, August, and October. Within forty-five days after receipt of such payments, the county treasurer shall distribute amounts determined under division (A) 72882
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of this section to the proper local taxing unit as if they had 72890
been levied and collected as taxes, and the local taxing unit 72891
shall apportion the amounts so received among its funds in the 72892
same proportions as if those amounts had been levied and collected 72893
as taxes. 72894

(D) For each of the fiscal years 2006 through 2018, if the 72895
total amount in the local government tangible property tax 72896
replacement fund is insufficient to make all payments under 72897
division (C) of this section at the times the payments are to be 72898
made, the director of budget and management shall transfer from 72899
the general revenue fund to the local government tangible property 72900
tax replacement fund the difference between the total amount to be 72901
paid and the amount in the local government tangible property tax 72902
replacement fund. For each fiscal year after 2018, at the time 72903
payments under division (A)(2) of this section are to be made, the 72904
director of budget and management shall transfer from the general 72905
revenue fund to the local government property tax replacement fund 72906
the amount necessary to make such payments. 72907

(E) On the fifteenth day of June of each year from 2006 72908
through 2018, the director of budget and management may transfer 72909
any balance in the local government tangible property tax 72910
replacement fund to the general revenue fund. 72911

(F) If all or a part of the territories of two or more local 72912
taxing units are merged, or unincorporated territory of a township 72913
is annexed by a municipal corporation, the tax commissioner shall 72914
adjust the payments made under this section to each of the local 72915
taxing units in proportion to the tax value loss apportioned to 72916
the merged or annexed territory, or as otherwise provided by a 72917
written agreement between the legislative authorities of the local 72918
taxing units certified to the commissioner not later than the 72919
first day of June of the calendar year in which the payment is to 72920
be made. 72921

Sec. 5751.23. (A) As used in this section: 72922

(1) "Administrative fees" means the dollar percentages 72923
allowed by the county auditor for services or by the county 72924
treasurer as fees, or paid to the credit of the real estate 72925
assessment fund, under divisions (A) and (B) of section 319.54 and 72926
division (A) of section 321.26 of the Revised Code. 72927

(2) "Administrative fee loss" means a county's loss of 72928
administrative fees due to its tax value loss, determined as 72929
follows: 72930

(a) For purposes of the determination made under division (B) 72931
of this section in the years 2006 through 2010, the administrative 72932
fee loss shall be computed by multiplying the amounts determined 72933
for all taxing districts in the county under divisions (D) and (E) 72934
of section 5751.20 of the Revised Code by nine thousand six 72935
hundred fifty-nine ten-thousandths of one per cent if total taxes 72936
collected in the county in 2004 exceeded one hundred fifty million 72937
dollars, or one and one thousand one hundred fifty-nine 72938
ten-thousandths of one per cent if total taxes collected in the 72939
county in 2004 were one hundred fifty million dollars or less; 72940

(b) For purposes of the determination under division (B) of 72941
this section in the years after 2010, the administrative fee 72942
losses shall be determined by multiplying the administrative fee 72943
losses calculated for 2010 by the fractions in divisions (A)(1)(b) 72944
to (i) of section 5751.22 of the Revised Code. 72945

(3) "Total taxes collected" means all money collected on any 72946
tax duplicate of the county, other than the estate tax duplicates. 72947
"Total taxes collected" does not include amounts received pursuant 72948
to divisions (F) and (G) of section 321.24 or section 323.156 of 72949
the Revised Code. 72950

(B) Not later than December 31, 2005, the tax commissioner 72951

shall certify to each county auditor the tax levy losses 72952
calculated under divisions (D) and (E) of section 5751.20 of the 72953
Revised Code for each school district, joint vocational school 72954
district, and local taxing unit in the county. Not later than the 72955
thirty-first day of January of 2006 through 2017, the county 72956
auditor shall determine the administrative fee loss for the county 72957
and apportion that loss ratably among the school districts, joint 72958
vocational school districts, and local taxing units on the basis 72959
of the tax levy losses certified under this division. 72960

(C) On or before each of the days prescribed for the 72961
settlements under divisions (A) and (C) of section 321.24 of the 72962
Revised Code in the years 2006 through 2017, the county treasurer 72963
shall deduct one-half of the amount apportioned to each school 72964
district, joint vocational school district, and local taxing unit 72965
from the portions of revenue payable to them. 72966

(D) On or before each of the days prescribed for settlements 72967
under divisions (A) and (C) of section 321.24 of the Revised Code 72968
in the years 2006 through 2017, the county auditor shall cause to 72969
be deposited an amount equal to one-half of the amount of the 72970
administrative fee loss in the same funds as if allowed as 72971
administrative fees. 72972

Sec. 5751.31. (A) Notwithstanding any section of law to the 72973
contrary, the tax commissioner may issue one or more final 72974
determinations under section 5703.60 of the Revised Code for which 72975
any appeal must be made directly to the supreme court within 72976
thirty days after the date the commissioner issued the 72977
determination if the primary issue raised by the petitioner is an 72978
issue arising under Section 3, 5a, or 13 of Article XII, Ohio 72979
Constitution. Such final determination shall clearly indicate that 72980
any appeal thereof must be made directly to the supreme court 72981
within the thirty-day period prescribed in this division. 72982

(B) If division (H)(3) of section 5751.01 of the Revised Code is determined to be unconstitutional under the Ohio Constitution or the Constitution of the United States, the commissioner may require taxpayers with taxable gross receipts in this state to provide a report as part of the tax returns the taxpayers file detailing the purchases they make from persons not registered to collect the tax imposed under this chapter. The commissioner shall adopt rules to enforce this division. The rules shall not require a taxpayer located in this state to file a report for purchases from a seller that total less than two million dollars in a calendar year. 72983
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Sec. 5751.50. (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code. 72994
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(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period 73008
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beginning before July 1, 2008. The credit shall not be claimed 73014
against the tax otherwise due for any tax period beginning after 73015
the date on which a relocation of employment positions occurs in 73016
violation of an agreement entered into under sections 122.17 or 73017
122.171 of the Revised Code. No credit shall be allowed under this 73018
chapter if the credit was available against the tax imposed by 73019
section 5733.06 or 5747.02 of the Revised Code, except to the 73020
extent the credit was not applied against such tax. 73021

Sec. 5751.51. (A) As used in this section, "qualified 73022
research expenses" has the same meaning as in section 41 of the 73023
Internal Revenue Code. 73024

(B)(1) For tax periods beginning on or after January 1, 2008, 73025
a nonrefundable credit may be claimed under this chapter equal to 73026
seven per cent of the excess of (a) qualified research expenses 73027
incurred in this state by the taxpayer in the tax period for which 73028
the credit is claimed over (b) the taxpayer's average annual 73029
qualified research expenses incurred in this state for the three 73030
preceding tax periods. 73031

(2) The taxpayer shall claim the credit allowed under 73032
division (B)(1) of this section in the order required by section 73033
5751.98 of the Revised Code. A credit claimed in tax year 2008 may 73034
not be applied against the tax otherwise due under this chapter 73035
for a tax period beginning before July 1, 2008. Any credit amount 73036
in excess of the tax due under section 5751.03 of the Revised 73037
Code, after allowing for any other credits that precede the credit 73038
under this section in the order required under that section, may 73039
be carried forward for seven tax years, but the amount of the 73040
excess credit claimed against the tax for any tax period shall be 73041
deducted from the balance carried forward to the next tax period. 73042

(3) No credit shall be allowed under this chapter if the 73043
credit was available against the tax imposed by section 5733.06 of 73044

the Revised Code, except to the extent the credit was not applied 73045
against such tax. 73046

Sec. 5751.52. (A) As used in this section: 73047

(1) "Borrower" means any person that receives a loan from the 73048
director of development under section 166.21 of the Revised Code, 73049
regardless of whether the borrower is subject to the tax imposed 73050
by this chapter. 73051

(2) "Qualified research and development loan payments" has 73052
the same meaning as in section 166.21 of the Revised Code. 73053

(3) "Related member" has the same meaning as in section 73054
5733.042 of the Revised Code. 73055

(B) For tax periods beginning on or after January 1, 2008, a 73056
nonrefundable credit may be claimed under this chapter equal to a 73057
borrower's qualified research and development loan payments made 73058
during the calendar year immediately preceding the tax period for 73059
which the credit is claimed. The amount of the credit for a 73060
calendar year shall not exceed one hundred fifty thousand dollars. 73061
No taxpayer is entitled to claim a credit under this section 73062
unless the taxpayer has obtained a certificate issued by the 73063
director of development under division (D) of section 166.21 of 73064
the Revised Code. The credit shall be claimed in the order 73065
required under section 5151.98 of the Revised Code. A credit 73066
claimed in calendar year 2008 may not be applied against the tax 73067
otherwise due under this chapter for a tax period beginning before 73068
July 1, 2008. No credit shall be allowed under this chapter if the 73069
credit was available against the tax imposed by section 5733.06 or 73070
5747.02 of the Revised Code except to the extent the credit was 73071
not applied against such tax. The credit, to the extent it exceeds 73072
the taxpayer's tax liability for a tax period after allowance for 73073
any other credits that precede the credit under this section in 73074

that order, shall be carried forward to the next succeeding tax period or periods, but the amount of the excess credit claimed against the tax for any tax period shall be deducted from the balance carried forward to the next tax period. 73075
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(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following: 73079
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(1) A related member of that borrower; 73081

(2) The owner or lessee of the eligible research and development project; 73082
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(3) A related member of the owner or lessee of the eligible research and development project. 73084
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A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it. 73086
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(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. 73093
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Sec. 5751.53. (A) As used in this section: 73098

(1) "Net income" and "taxable year" have the same meanings as in section 5733.04 of the Revised Code. 73099
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(2) "Franchise tax year" means "tax year" as defined in section 5733.04 of the Revised Code. 73101
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(3) "Deductible temporary differences" and "taxable temporary 73103

differences" have the same meanings as those terms have for 73104
purposes of paragraph 13 of the statement of financial accounting 73105
standards, number 109. 73106

(4) "Qualifying taxpayer" means a taxpayer under this chapter 73107
that has a qualifying Ohio net operating loss carryforward equal 73108
to or greater than the qualifying amount. 73109

(5) "Qualifying Ohio net operating loss carryforward" means 73110
an Ohio net operating loss carryforward that the taxpayer could 73111
deduct in whole or in part for franchise tax year 2006 under 73112
section 5733.04 of the Revised Code but for the application of 73113
division (H) of this section. A qualifying Ohio net operating loss 73114
carryforward shall not exceed the amount of loss carryforward from 73115
franchise tax year 2005 as reported by the taxpayer either on a 73116
franchise tax report for franchise tax year 2005 pursuant to 73117
section 5733.02 of the Revised Code or on an amended franchise tax 73118
report prepared in good faith for such year and filed before July 73119
1, 2006. 73120

(6) "Disallowed Ohio net operating loss carryforward" means 73121
the lesser of the amounts described in division (A)(6)(a) or (b) 73122
of this section, but the amounts described in divisions (A)(6)(a) 73123
and (b) of this section shall each be reduced by the qualifying 73124
amount. 73125

(a) The qualifying taxpayer's qualifying Ohio net operating 73126
loss carryforward; 73127

(b) The Ohio net operating loss carryforward amount that the 73128
qualifying taxpayer used to compute the related deferred tax asset 73129
reflected on its books and records on the last day of its taxable 73130
year ending in 2004, adjusted for return to accrual, but this 73131
amount shall be reduced by the qualifying related valuation 73132
allowance amount. For the purposes of this section, the 73133
"qualifying related valuation allowance amount" is the amount of 73134

Ohio net operating loss reflected in the qualifying taxpayer's 73135
computation of the valuation allowance account, as shown on its 73136
books and records on the last day of its taxable year ending in 73137
2004, with respect to the deferred tax asset relating to its Ohio 73138
net operating loss carryforward amount. 73139

(7) "Other net deferred tax items apportioned to this state" 73140
is the product of (a) the amount of net deferred tax items and (b) 73141
the fraction described in division (B)(2) of section 5733.05 for 73142
the qualifying taxpayer's franchise tax year 2005. 73143

(8)(a) Subject to divisions (A)(8)(b) to (d) of this section, 73144
the "amount of other net deferred tax items" is the difference 73145
between (i) the qualifying taxpayer's deductible temporary 73146
differences, net of related valuation allowance amounts, shown on 73147
the qualifying taxpayer's books and records on the last day of its 73148
taxable year ending in 2004, and (ii) the qualifying taxpayer's 73149
taxable temporary differences as shown on those books and records 73150
on that date. The amount of other net deferred tax items may be 73151
less than zero. 73152

(b) For the purposes of computing the amount of the 73153
qualifying taxpayer's other net deferred tax items described in 73154
division (A)(8)(a) of this section, any credit carryforward 73155
allowed under Chapter 5733. of the Revised Code shall be excluded 73156
from the amount of deductible temporary differences to the extent 73157
such credit carryforward amount, net of any related valuation 73158
allowance amount, is otherwise included in the qualifying 73159
taxpayer's deductible temporary differences, net of related 73160
valuation allowance amounts, shown on the qualifying taxpayer's 73161
books and records on the last day of the qualifying taxpayer's 73162
taxable year ending in 2004. 73163

(c) No portion of the disallowed Ohio net operating loss 73164
carryforward shall be included in the computation of the amount of 73165

the qualifying taxpayer's net deferred tax items described in 73166
division (A)(8)(a) of this section. 73167

(d) In no event shall the amount of other net deferred tax 73168
items exceed twenty-five per cent of the qualifying Ohio net 73169
operating loss carryforward. 73170

(9) "Amortizable amount" means: 73171

(a) If the qualifying taxpayer's other net deferred tax items 73172
apportioned to this state is equal to or greater than zero, eight 73173
per cent of the sum of the qualifying taxpayer's disallowed Ohio 73174
net operating loss carryforward and the qualifying taxpayer's 73175
other net deferred tax items apportioned to this state; 73176

(b) If the amount of the qualifying taxpayer's other net 73177
deferred tax items apportioned to this state is less than zero and 73178
if the absolute value of the amount of qualifying taxpayer's other 73179
net deferred tax items apportioned to this state is less than the 73180
qualifying taxpayer's disallowed net operating loss, eight per 73181
cent of the difference between the qualifying taxpayer's 73182
disallowed net operating loss carryforward and the absolute value 73183
of the qualifying taxpayer's other net deferred tax items 73184
apportioned to this state; 73185

(c) If the amount of the qualifying taxpayer's other net 73186
deferred tax items apportioned to this state is less than zero and 73187
if the absolute value of the amount of qualifying taxpayer's other 73188
net deferred tax items apportioned to this state is equal to or 73189
greater than the qualifying taxpayer's disallowed net operating 73190
loss, zero. 73191

(10) "Books and records" means the qualifying taxpayer's 73192
books, records, and all other information, all of which the 73193
qualifying taxpayer maintains and uses to prepare and issue its 73194
financial statements in accordance with generally accepted 73195
accounting principles. 73196

(11)(a) Except as modified by division (A)(11)(b) of this section, "qualifying amount" means fifty million dollars per person. 73197
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(b) If for franchise tax year 2005 the person was a member of a combined franchise tax report, as provided by section 5733.052 of the Revised Code, the "qualifying amount" is, in the aggregate, fifty million dollars for all members of that combined franchise tax report, and for purposes of divisions (A)(6)(a) and (b) of this section, those members shall allocate to each member any portion of the fifty million dollar amount. The total amount allocated to the members who are qualifying taxpayers shall equal fifty million dollars. 73200
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(B) For each calendar period beginning prior to January 1, 2030, there is hereby allowed a nonrefundable tax credit against the tax levied each year by this chapter on each qualifying taxpayer, on each consolidated elected taxpayer having one or more qualifying taxpayers as a member, and on each combined taxpayer having one or more qualifying taxpayers as a member. The credit shall be claimed in the order specified in section 5751.98 of the Revised Code and is allowed only to reduce the first one-half of any tax remaining after allowance of the credits that precede it in section 5751.98 of the Revised Code. No credit under division (B) of this section shall be allowed against the second one-half of such remaining tax. 73209
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Except as otherwise limited by divisions (C) and (D) of this section, the maximum amount of the nonrefundable credit that may be used against the first one-half of the remaining tax for each calendar year is as follows: 73221
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(1) For calendar year 2010, ten per cent of the amortizable amount; 73225
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(2) For calendar year 2011, twenty per cent of the 73227

<u>amortizable amount, less all amounts previously used;</u>	73228
<u>(3) For calendar year 2012, thirty per cent of the</u>	73229
<u>amortizable amount, less all amounts previously used;</u>	73230
<u>(4) For calendar year 2013, forty per cent of the amortizable</u>	73231
<u>amount, less all amounts previously used;</u>	73232
<u>(5) For calendar year 2014, fifty per cent of the amortizable</u>	73233
<u>amount, less all amounts previously used;</u>	73234
<u>(6) For calendar year 2015, sixty per cent of the amortizable</u>	73235
<u>amount, less all amounts previously used;</u>	73236
<u>(7) For calendar year 2016, seventy per cent of the</u>	73237
<u>amortizable amount, less all amounts previously used;</u>	73238
<u>(8) For calendar year 2017, eighty per cent of the</u>	73239
<u>amortizable amount, less all amounts previously used;</u>	73240
<u>(9) For calendar year 2018, ninety per cent of the</u>	73241
<u>amortizable amount, less all amounts previously used;</u>	73242
<u>(10) For each of calendar years 2019 through 2029, one</u>	73243
<u>hundred per cent of the amortizable amount, less all amounts used</u>	73244
<u>in all previous years.</u>	73245
<u>In no event shall the cumulative credit used for calendar</u>	73246
<u>years 2010 through 2029 exceed one hundred per cent of the</u>	73247
<u>amortizable amount.</u>	73248
<u>(C)(1) Except as otherwise set forth in division (C)(2) of</u>	73249
<u>this section, a refundable credit is allowed in calendar year 2030</u>	73250
<u>for any portion of the qualifying taxpayer's amortizable amount</u>	73251
<u>that is not used in accordance with division (B) of this section</u>	73252
<u>against the tax levied by this chapter on all taxpayers.</u>	73253
<u>(2) Division (C)(1) of this section shall not apply and no</u>	73254
<u>refundable credit shall be available to any person if during any</u>	73255
<u>portion of the calendar year 2030 the person is not subject to the</u>	73256

tax imposed by this chapter.

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(D) Not later than June 30, 2006, each qualifying taxpayer, consolidated elected taxpayer, or combined taxpayer that will claim for any commercial activity tax year the credit allowed in divisions (B) and (C) of this section shall file with the tax commissioner a report setting forth the amortizable amount available to such taxpayer and all other related information that the commissioner, by rule, requires. If the taxpayer does not timely file the report or fails to provide timely all information required by this division, the taxpayer is precluded from claiming any credit amounts described in divisions (B) and (C) of this section.

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(E) For the purpose of calculating the amortizable amount, if the tax commissioner ascertains that any portion of that amount is the result of a sham transaction as described in section 5703.56 of the Revised Code, the commissioner shall reduce the amortizable amount by two times the adjustment.

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(F) If one entity transfers all or a portion of its assets and equity to another entity as part of an entity organization or reorganization or subsequent entity organization or reorganization for which no gain or loss is recognized in whole or in part for federal income tax purposes under the Internal Revenue Code, the credits allowed by this section shall be computed in a manner consistent with that used to compute the portion, if any, of federal net operating losses allowed to the respective entities under the Internal Revenue Code. The tax commissioner may prescribe forms or rules for making the computations required by this division.

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(G)(1) Except as provided in division (F) of this section, no person shall pledge, collateralize, hypothecate, assign, convey, sell, exchange, or otherwise dispose of any or all tax credits, or

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any portion of any or all tax credits allowed under this section. 73288

(2) No credit allowed under this section is subject to execution, attachment, lien, levy, or other judicial proceeding. 73289
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(H)(1)(a) Except as set forth in division (H)(1)(b) of this section and notwithstanding division (I)(1) of section 5733.04 of the Revised Code to the contrary, each person timely and fully complying with the reporting requirements set forth in division (E) of this section shall not claim, and shall not be entitled to claim, any deduction or adjustment for any Ohio net operating loss carried forward to any one or more franchise tax years after franchise tax year 2005. 73291
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(b) Division (H)(1)(a) of this section applies only to the portion of the Ohio net operating loss represented by the disallowed Ohio net operating loss carryforward. 73299
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(2) Notwithstanding division (I) of section 5733.04 of the Revised Code to the contrary, with respect to all franchise tax years after franchise tax year 2005, each person timely and fully complying with the reporting requirements set forth in division (D) of this section shall not claim, and shall not be entitled to claim, any deduction, exclusion, or adjustment with respect to deductible temporary differences reflected on the person's books and records on the last day of its taxable year ending in 2004. 73302
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(3)(a) Except as set forth in division (H)(3)(b) of this section and notwithstanding division (I) of section 5733.04 of the Revised Code to the contrary, with respect to all franchise tax years after franchise tax year 2005, each person timely and fully complying with the reporting requirements set forth in division (D) of this section shall exclude from Ohio net income all taxable temporary differences reflected on the person's books and records on the last day of its taxable year ending in 2004. 73310
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(b) In no event shall the exclusion provided by division 73318

(H)(3)(a) of this section for any franchise tax year exceed the 73319
amount of the taxable temporary differences otherwise included in 73320
Ohio net income for that year. 73321

(4) Divisions (H)(2) and (3) of this section shall apply only 73322
to the extent such items were used in the calculations of the 73323
credit provided by this section. 73324

Sec. 5751.98. (A) To provide a uniform procedure for 73325
calculating the amount of tax due under this chapter, a taxpayer 73326
shall claim any credits to which it is entitled in the following 73327
order: 73328

(1) The nonrefundable jobs retention credit under division 73329
(B) of section 5751.50 of the Revised Code; 73330

(2) The nonrefundable credit for qualified research expenses 73331
under division (B) of section 5751.51 of the Revised Code; 73332

(3) The nonrefundable credit for a borrower's qualified 73333
research and development loan payments under division (B) of 73334
section 5751.52 of the Revised Code; 73335

(4) The nonrefundable credit for calendar years 2010 to 2029 73336
for unused net operating losses under division (B) of section 73337
5751.53 of the Revised Code; 73338

(5) The refundable credit for calendar year 2030 for unused 73339
net operating losses under division (C) of section 5751.53 of the 73340
Revised Code; 73341

(6) The refundable jobs creation credit under division (A) of 73342
section 5751.50 of the Revised Code. 73343

(B) For any credit except the credit enumerated in division 73344
(A)(4) of this section, the amount of the credit for a tax period 73345
shall not exceed the tax due after allowing for any other credit 73346
that precedes it in the order required under this section. Any 73347

excess amount of a particular credit may be carried forward if 73348
authorized under the section creating the credit. 73349

Sec. 5751.99. (A) Whoever files a fraudulent refund claim 73350
under section 5751.08 of the Revised Code shall be fined the 73351
greater of not more than one thousand dollars or the amount of the 73352
fraudulent refund requested or imprisoned not more than sixty 73353
days, or both. 73354

(B) Except as provided in this section, whoever violates any 73355
section of this chapter, or any rule adopted by the tax 73356
commissioner under this chapter, shall be fined not more than five 73357
hundred dollars or imprisoned not more than thirty days, or both. 73358

(C) The penalties provided in this section are in addition to 73359
any penalties imposed by the tax commissioner under section 73360
5751.06 of the Revised Code. 73361

Sec. 5907.15. There is hereby created in the state treasury 73362
the Ohio veterans' homes rental, service, and medicare 73363
reimbursement fund. Revenue generated from temporary use 73364
agreements of a veterans' home, from the sale of meals at a home's 73365
dining halls, from rental, lease, or sharing agreements for the 73366
use of facilities, supplies, equipment, utilities, or services 73367
provided by a home, and from medicare reimbursements shall be 73368
credited to the fund. The fund shall be used only for maintenance 73369
costs of the homes and for the purchase of medications, medication 73370
services, medical supplies, and medical equipment by the homes. 73371

Sec. 5919.31. (A) If an active duty member of the Ohio 73372
national guard chooses to purchase life insurance pursuant to the 73373
"Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. 73374
(1965), 38 U.S.C. 1965 et seq., the adjutant general shall 73375
reimburse the member in an amount equal to the monthly premium 73376

paid for each month or part of a month by the member pursuant to 73377
the act while being an active duty member. 73378

(B) The adjutant general may request additional money from 73379
the controlling board if the adjutant general does not have 73380
sufficient available unencumbered funds to reimburse active duty 73381
members for life insurance premiums pursuant to this section. 73382

(C) The adjutant general may prescribe and enforce 73383
regulations to implement the requirements of this section. In 73384
prescribing and enforcing those regulations, the adjutant general 73385
need not comply with section 111.15 or Chapter 119. of the Revised 73386
Code. 73387

(D) As used in this section, "active duty member" means a 73388
member of the Ohio national guard on active duty pursuant to an 73389
executive order of the president of the United States, the "Act of 73390
October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as 73391
amended, another act of the congress of the United States, or a 73392
proclamation of the governor. 73393

~~**Sec. 5919.33. Upon certification of availability of funds by**~~ 73394
~~the director of budget and management, the~~ (A) The adjutant 73395
general shall pay a death benefit of ~~twenty~~ one hundred thousand 73396
dollars from the appropriations ~~for operating expenses made for~~ 73397
the purpose to the beneficiary or beneficiaries of any active duty 73398
member of the Ohio national guard who dies while performing ~~state~~ 73399
~~active duty under orders issued by the adjutant general on behalf~~ 73400
~~of the governor~~, if the beneficiary or beneficiaries has or have 73401
been so designated in a written statement as prescribed by the 73402
adjutant general. 73403

(C) As used in this section, "active duty member" means a 73404
member of the Ohio national guard on active duty pursuant to an 73405
executive order of the president of the United States, the "Act of 73406

October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as 73407
amended, another act of the congress of the United States, or a 73408
proclamation of the governor. 73409

Sec. 5919.341. There is hereby created in the state treasury 73410
the national guard scholarship reserve fund. Not later than the 73411
first day of July of each fiscal year, the Ohio board of regents 73412
shall certify to the director of budget and management the 73413
unencumbered balance of the general revenue fund appropriations 73414
made in the immediately preceding fiscal year for purposes of the 73415
Ohio national guard scholarship program created under division (B) 73416
of section 5919.34 of the Revised Code. Upon receipt of the 73417
certification, the director may transfer an amount not exceeding 73418
the certified amount from the general revenue fund to the national 73419
guard scholarship reserve fund. Moneys in the national guard 73420
scholarship reserve fund shall be used to pay scholarship 73421
obligations in excess of the general revenue fund appropriations 73422
made for that purpose. Upon request of the adjutant general, the 73423
Ohio board of regents shall seek controlling board approval to 73424
establish appropriations as necessary. 73425

The director may transfer any unencumbered balance from the 73426
national guard scholarship reserve fund to the general revenue 73427
fund. 73428

Sec. 5920.01. (A) The governor shall organize and maintain 73429
within this state on a cadre or reserve basis military forces 73430
capable of being expanded and trained to defend this state 73431
whenever the Ohio national guard, or a part thereof, is employed 73432
so as to leave this state without adequate defense. In case of an 73433
emergency proclaimed by the president, or the Congress of the 73434
United States, or the governor, or caused by enemy action or 73435
imminent danger thereof, the governor, as commander in chief, 73436

shall expand such forces as the exigency of the occasion requires. 73437
Such forces shall be organized and maintained under regulations 73438
which shall not be inconsistent with such regulations as the 73439
secretary of defense prescribes for discipline and training and 73440
shall be composed of officers commissioned and assigned, and such 73441
able-bodied citizens of the state as are accepted therein. Such 73442
forces shall be equipped with suitable uniforms not in violation 73443
of federal laws or contrary to the regulations of the secretary of 73444
defense. Such forces shall be known as the Ohio military reserve. 73445
During the period of organization on a cadre or reserve basis the 73446
commander in chief may fix lesser rates of pay for armory drill 73447
purposes or for service in encampments and maneuvers. In the event 73448
that the regulations of the department of defense are modified so 73449
as to recognize the Ohio military reserve as a part of the Ohio 73450
national guard not subject to induction into federal service, the 73451
laws pertaining to the Ohio national guard shall apply to the Ohio 73452
military reserve and it shall be known as a component of the Ohio 73453
national guard. 73454

(B) The commander of the Ohio military reserve shall report 73455
all expenditures and the use of all funds by the Ohio military 73456
reserve to the general assembly. The commander annually shall 73457
deliver the report, in writing, within three months of the end of 73458
the state fiscal year. 73459

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 73460
of this section, on and after January 1, 1994, no person shall 73461
operate or maintain a public water system in this state without a 73462
license issued by the director of environmental protection. A 73463
person who operates or maintains a public water system on January 73464
1, 1994, shall obtain an initial license under this section in 73465
accordance with the following schedule: 73466

(1) If the public water system is a community water system, 73467

not later than January 31, 1994; 73468

(2) If the public water system is not a community water 73469
system and serves a nontransient population, not later than 73470
January 31, 1994; 73471

(3) If the public water system is not a community water 73472
system and serves a transient population, not later than January 73473
31, 1995. 73474

A person proposing to operate or maintain a new public water 73475
system after January 1, 1994, in addition to complying with 73476
section 6109.07 of the Revised Code and rules adopted under it, 73477
shall submit an application for an initial license under this 73478
section to the director prior to commencing operation of the 73479
system. 73480

A license or license renewal issued under this section shall 73481
be renewed annually. Such a license or license renewal shall 73482
expire on the thirtieth day of January in the year following its 73483
issuance. A license holder that proposes to continue operating the 73484
public water system for which the license or license renewal was 73485
issued shall apply for a license renewal at least thirty days 73486
prior to that expiration date. 73487

The director shall adopt, and may amend and rescind, rules in 73488
accordance with Chapter 119. of the Revised Code establishing 73489
procedures governing and information to be included on 73490
applications for licenses and license renewals under this section. 73491
Through June 30, ~~2006~~ 2008, each application shall be accompanied 73492
by the appropriate fee established under division (M) of section 73493
3745.11 of the Revised Code, provided that an applicant for an 73494
initial license who is proposing to operate or maintain a new 73495
public water system after January 1, 1994, shall submit a fee that 73496
equals a prorated amount of the appropriate fee established under 73497
that division for the remainder of the licensing year. 73498

(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 with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has

obtained a license under this section for such a public water system need not obtain a license renewal under this section. 73530
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(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school. 73532
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Sec. 6111.02. As used in this section and sections 6111.021 to 6111.028 and 6111.0210 to 6111.0213 of the Revised Code: 73536
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(A) "Category 1 wetland," "category 2 wetland," or "category 3 wetland" means a category 1 wetland, category 2 wetland, or category 3 wetland, respectively, as described in rule 3745-1-54 of the Administrative Code, as that rule existed on ~~the effective date of this section~~ July 17, 2001, and as determined to be a category 1, category 2, or category 3 wetland, respectively, through application of the "Ohio rapid assessment method for wetlands version 5.0," including the Ohio rapid assessment method for wetlands version 5.0 quantitative score calibration dated August 15, 2000, unless an application for a section 401 water quality certification was submitted prior to February 28, 2001, in which case the applicant for the permit may elect to proceed in accordance with Ohio rapid assessment method for wetlands version 4.1. 73538
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(B) "Creation" means the establishment of a wetland where one did not formerly exist and that involves wetland construction on nonhydric soils. 73552
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(C) "Discharge of dredged material" and "discharge of fill material" have the same meanings as in 33 C.F.R 323.2 as effective February 16, 2001. 73555
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(D) "Dredged material" or "dredge material" means material that is excavated or dredged from a wetland, including an isolated 73558
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wetland, or a stream. "Dredged material" does not include material 73560
resulting from normal farming, silviculture, and ranching 73561
activities, such as plowing, cultivating, seeding, and harvesting, 73562
for production of food, fiber, and forest products. 73563

(E) "Enhancement" means activities conducted in an existing 73564
wetland to improve or repair existing or natural wetland functions 73565
and values of that wetland. 73566

~~(D)~~(F) "Ephemeral stream" means a stream that flows only in 73567
direct response to precipitation in the immediate watershed or in 73568
response to the melting of a cover of snow and ice and that has 73569
channel bottom that is always above the local water table. 73570

(G) "Fill material" means any material that is used to fill 73571
an aquatic area, to replace an aquatic area with dry land, or to 73572
change the bottom elevation of a wetland or stream for any purpose 73573
and that consists of suitable material that is free from toxic 73574
contaminants in other than trace quantities. "Fill material" does 73575
not include either of the following: 73576

(1) Material resulting from normal farming, silviculture, and 73577
ranching activities, such as plowing, cultivating, seeding, and 73578
harvesting, for the production of food, fiber, and forest 73579
products; 73580

(2) Material placed for the purpose of maintenance of 73581
existing structures, including emergency reconstruction of 73582
recently damaged parts of currently serviceable structures such as 73583
dikes, dams, levees, groins, riprap, breakwaters, causeways, and 73584
bridge abutments or approaches, and transportation structures. 73585

~~(E)~~(H) "Filling" means the addition of fill material into a 73586
wetland or stream for the purpose of creating upland, changing the 73587
bottom elevation of the wetland or stream, or creating 73588
impoundments of water. "Filling" includes, without limitation, the 73589
placement of the following in wetlands or streams: fill material 73590

that is necessary for the construction of any structure; 73591
structures or impoundments requiring rock, sand, dirt, or other 73592
material for its construction; site-development fills for 73593
recreational, industrial, commercial, residential, or other uses; 73594
causeways or road fills; dams and dikes; artificial islands, 73595
property protection, or reclamation devices such as riprap, 73596
groins, seawalls, breakwalls, and bulkheads and fills; beach 73597
nourishment; levees; sanitary landfills; fill material for 73598
structures such as sewage treatment facilities, intake and outfall 73599
pipes associated with power plants, and underwater utility lines; 73600
and artificial reefs. 73601

~~(F)~~(I) "Intermittent stream" means a stream that is below the 73602
local water table and flows for at least a part of each year and 73603
that obtains its flow from both surface runoff and ground water 73604
discharge. 73605

(J) "Isolated wetland" means a wetland that is not subject to 73606
regulation under the Federal Water Pollution Control Act. 73607

~~(G)~~(K) "Mitigation" means the restoration, creation, 73608
enhancement, or, in exceptional circumstances, preservation of 73609
wetlands or streams, as applicable, expressly for the purpose of 73610
compensating for wetland or stream impacts. 73611

~~(H)~~(L) "Mitigation bank service area" means the designated 73612
area where a mitigation bank can reasonably be expected to provide 73613
appropriate compensation for impacts to wetlands and other aquatic 73614
resources and that is designated as such in accordance with the 73615
process established in the "Federal Guidance for the 73616
Establishment, Use and Operation of Mitigation Banks (1995)," 60 73617
FR 58605. 73618

~~(I)~~(M) "Off-site mitigation" means wetland restoration, 73619
creation, enhancement, or preservation occurring farther than one 73620
mile from a project boundary, but within the same watershed. 73621

~~(J)~~(N) "On-site mitigation" means wetland restoration, 73622
creation, enhancement, or preservation occurring within and not 73623
more than one mile from the project boundary and within the same 73624
watershed. 73625

~~(K)~~(O) "Perennial stream" means a stream or a part of a 73626
stream that flows continuously during all of the calendar year as 73627
a result of ground water discharge or surface water runoff. 73628
"Perennial stream" does not include an intermittent stream or an 73629
ephemeral stream. 73630

(P) "Practicable" means available and capable of being 73631
executed with existing technology and without significant adverse 73632
effect on the economic feasibility of the project in light of the 73633
overall project purposes and in consideration of the relative 73634
environmental benefit. 73635

~~(L)~~(O) "Preservation" means the protection of ecologically 73636
important wetlands in perpetuity through the implementation of 73637
appropriate legal mechanisms to prevent harm to the wetlands. 73638
"Preservation" may include protection of adjacent upland areas as 73639
necessary to ensure protection of a wetland. 73640

~~(M)~~(R) "Restoration" means the reestablishment of a 73641
previously existing wetland at a site where it has ceased to 73642
exist. 73643

~~(N)~~(S) "Section 401 water quality certification" means 73644
certification pursuant to section 401 of the Federal Water 73645
Pollution Control Act and this chapter and rules adopted under it 73646
that any discharge, as set forth in section 401, will comply with 73647
sections 301, 302, 303, 306, and 307 of the Federal Water 73648
Pollution Control Act. 73649

(T) "State isolated wetland permit" means a permit issued in 73650
accordance with sections 6111.02 to 6111.027 of the Revised Code 73651
authorizing the filling of an isolated wetland. 73652

~~(O)~~(U) "Watershed" means a common surface drainage area 73653
corresponding to one from the list of thirty-seven adapted from 73654
the forty-four cataloging units as depicted on the hydrologic unit 73655
map of Ohio, United States geological survey, 1988, and as 73656
described in division (F)(2) of rule 3745-1-54 of the 73657
Administrative Code or as otherwise shown on map number 1 found in 73658
rule 3745-1-54 of the Administrative Code. "Watershed" is limited 73659
to those parts of the cataloging units that geographically lie 73660
within the borders of this state. 73661

~~(P)~~(V) "Wetlands" means those areas that are inundated or 73662
saturated by surface or ground water at a frequency and duration 73663
that are sufficient to support, and that under normal 73664
circumstances do support, a prevalence of vegetation typically 73665
adapted for life in saturated soil conditions. "Wetlands" includes 73666
swamps, marshes, bogs, and similar areas that are delineated in 73667
accordance with the 1987 United States army corps of engineers 73668
wetland delineation manual and any other procedures and 73669
requirements adopted by the United States army corps of engineers 73670
for delineating wetlands. 73671

~~(Q)~~(W) "Wetland mitigation bank" means a site where wetlands 73672
have been restored, created, enhanced, or, in exceptional 73673
circumstances, preserved expressly for the purpose of providing 73674
mitigation for impacts to wetlands and that has been approved in 73675
accordance with the process established in the "Federal Guidance 73676
for the Establishment, Use and Operation of Mitigation Banks 73677
(1995)," 60 FR 58605. 73678

Sec. 6111.0210. (A) Sections 6111.0210 and 6111.0211 of the 73679
Revised Code apply to wetlands that are not isolated wetlands. 73680

(B) The discharge of dredge or fill material into a category 73681
1 or a category 2 wetland of three acres or less or such a 73682
discharge impacting a portion of an ephemeral stream of one 73683

thousand linear feet or less, a portion of an intermittent stream 73684
of five hundred linear feet or less, or a portion of a perennial 73685
stream of one hundred linear feet or less shall require a section 73686
401 water quality certification issued by the director of 73687
environmental protection and shall be subject to level one review 73688
requirements established under division (C) of this section. 73689

(C) Level one review shall apply only to the discharge of 73690
dredge or fill material into a category 1 or category 2 wetland or 73691
an ephemeral, intermittent, or perennial stream, as applicable, as 73692
described in division (B) of this section. A level one review 73693
shall require, and is limited to, the submission of a pre-activity 73694
notice that includes an application; an acceptable delineation; a 73695
wetland or stream categorization, as applicable; a description of 73696
the project; a description of the acreage of the wetland or of the 73697
linear footage of the stream, as applicable, that will be subject 73698
to dredging or filling; site photographs; and a mitigation 73699
proposal for the impact to the wetland or stream, as applicable, 73700
that includes both of the following: 73701

(1) The submission of an analysis of technically feasible and 73702
economically reasonable on-site alternatives to the proposed 73703
dredging or filling of the wetland or stream, as applicable, that 73704
would have a less adverse impact on the wetland ecosystem; 73705

(2) The submission of information indicating whether high 73706
quality waters, as defined in rule 3745-1-05 of the Administrative 73707
Code, are to be avoided by the proposed dredging or filling of the 73708
wetland or stream, as applicable. 73709

(D) The director shall grant or deny a section 401 water 73710
quality certification for the proposed dredging or filling of a 73711
wetland or stream that is subject to level one review not later 73712
than one hundred twenty days after receipt of an application for 73713
the certification. The director shall issue a section 401 water 73714

quality certification after a level one review unless the director 73715
determines that the applicant has failed to demonstrate all of the 73716
following: 73717

(1) There is no technically feasible and economically 73718
reasonable on-site alternative to the proposed dredging or filling 73719
that would have a less adverse impact on the wetland or stream 73720
ecosystem. 73721

(2) Reasonable buffers have been provided for any wetland or 73722
stream that will be avoided at the site where the proposed 73723
dredging or filling will take place. 73724

(3) The wetland or stream is not locally or regionally scarce 73725
within the watershed in which it is located and does not contain 73726
endangered species. 73727

(4) The impact would not result in significant degradation to 73728
the aquatic ecosystem. 73729

(5) Appropriate mitigation has been proposed for any 73730
unavoidable impacts. 73731

(6) Storm water and water quality controls will be installed 73732
to ensure that peak post-development rates of surface water runoff 73733
from the impacted wetland or stream do not greatly exceed the peak 73734
pre-development rates of surface water runoff from the wetland or 73735
stream. Water quality improvement measures shall be incorporated 73736
into the design of the storm water control measures that are 73737
required by laws of this state and federal law. 73738

(7) Any additional, technically feasible and economically 73739
reasonable, site-specific requirements that are determined 73740
necessary by the director to protect water quality have been 73741
satisfied. 73742

(E) Mitigation for the proposed dredging or filling of a 73743
wetland or stream that is subject to level one review shall be 73744

conducted by the applicant. Without the objection of the director 73745
and at the discretion of the applicant, the applicant shall 73746
conduct either on-site mitigation, mitigation at a wetland 73747
mitigation bank within the same United States army corps of 73748
engineers district as the location of the proposed dredging or 73749
filling of the wetland or stream, or off-site mitigation. 73750

Sec. 6111.0211. (A) The discharge of dredge or fill material 73751
into a category 1 or category 2 wetland of greater than three 73752
acres or a category 3 wetland or such a discharge impacting a 73753
portion of an ephemeral stream of greater than one thousand linear 73754
feet, a portion of an intermittent stream greater than five 73755
hundred linear feet, or a portion of a perennial stream of greater 73756
than one hundred linear feet shall require a section 401 water 73757
quality certification issued by the director of environmental 73758
protection and shall be subject to level two review requirements 73759
established under division (B) of this section. 73760

(B) Level two review shall apply to the discharge of dredge 73761
or fill material into a category 1, category 2, or category 3 73762
wetland or an ephemeral, intermittent, or perennial stream 73763
described in division (A) of this section and shall require all of 73764
the following: 73765

(1) All of the information required to be submitted with a 73766
pre-activity notice as described in division (C) of section 73767
6111.0210 of the Revised Code; 73768

(2) A full antidegradation review conducted in accordance 73769
with rules adopted under section 6111.12 of the Revised Code; 73770

(3) The submission of information indicating whether high 73771
quality waters, as defined in rule 3745-1-05 of the Administrative 73772
Code, are to be avoided by the proposed dredging or filling of the 73773
wetland or stream, as applicable. 73774

(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.

(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.

(E) Mitigation for the proposed dredging or filling of a

wetland or stream that is subject to level two review shall be 73806
conducted by the applicant and shall occur in the following 73807
preferred order: 73808

(1) Technically feasible and economically reasonable 73809
mitigation to the extent that the on-site mitigation would provide 73810
significant benefits to the aquatic habitat despite the 73811
modification of the site due to development; 73812

(2) Technically feasible and economically reasonable off-site 73813
mitigation within the same watershed; 73814

(3) If the proposed dredging or filling of the wetland or 73815
stream will take place within a mitigation bank service area, 73816
within that mitigation bank service area; 73817

(4) If there is a significant ecological reason that the 73818
mitigation should not be limited to the watershed in which the 73819
wetland or stream is located and if the proposed mitigation will 73820
result in a substantially greater ecological benefit, in a 73821
watershed that is adjacent to the watershed in which the wetland 73822
or stream is located. 73823

Sec. 6111.0212. (A) Not later than fifteen business days 73825
after the receipt of an application for a section 401 water 73826
quality certification, the director of environmental protection 73827
shall notify the applicant if the application is complete. If the 73828
application is not complete, the director shall include in the 73829
notice an itemized list of the information or materials that are 73830
necessary to complete the application. Time periods specified in 73831
statute or rule shall be tolled until the application is 73832
determined by the director to be complete. 73833

(B) Not later than twenty-one days after the receipt of a 73834
complete application, the director shall publish notice of its 73835
receipt in a newspaper of general circulation in the county in 73836

which the proposed project that is the subject of the application 73837
is to take place. The notice shall contain only the following: 73838

(1) The name of the applicant; 73839

(2) The proposed location of the project; 73840

(3) A description of the proposed impact; 73841

(4) The proposed mitigation of the impact. 73842

The director shall accept comments concerning the application 73843
and requests for a public hearing concerning the application for 73844
not more than fifteen days following the publication of notice 73845
concerning the application. 73846

(C) If the director receives a request for a public hearing 73847
on the application and the director determines that there is 73848
significant public interest in such a hearing as evidenced by the 73849
public comments received concerning the application and other 73850
requests for a public hearing on the application, the director or 73851
the director's representative shall conduct a public hearing 73852
concerning the application. Notice of the public hearing shall be 73853
published not later than thirty days prior to the date of the 73854
hearing in a newspaper of general circulation in the county in 73855
which the project that is the subject of the application is to 73856
take place. If a public hearing is requested concerning an 73857
application, the director shall accept comments concerning the 73858
application until five business days after the public hearing. A 73859
public hearing conducted under this division shall take place not 73860
later than seventy days after the receipt of the application. 73861

Sec. 6111.0213. All wetland, stream, or lake mitigation 73862
standards, scientific methods, processes, and other procedures or 73863
policies that are used by or approved for use by the director of 73864
environmental protection to evaluate or measure or to determine 73865
the approval or denial of a mitigation proposal shall be subject 73866

to sections 119.03 and 119.032 of the Revised Code before the 73867
standards, scientific methods, processes, or other procedures or 73868
policies have the force of law. Until that time, any such 73869
mitigation standards, scientific methods, processes, or any other 73870
procedures or policies that are used by or approved for use by the 73871
director to evaluate, measure, or determine the success, approval, 73872
or denial of a mitigation proposal, but that have not been subject 73873
to review under sections 119.03 and 119.032 of the Revised Code 73874
shall not be used as the basis for any certification or permit 73875
denial or as a standard applied to mitigation. All wetland 73876
restoration or creation performed for mitigation of wetland 73877
impacts authorized by the director shall result in the restoration 73878
or creation of wetlands that meet or exceed the quality of the 73879
wetland impacted as measured by the Ohio rapid assessment method. 73880

Sec. 6121.04. The Ohio water development authority may do any 73881
or all of the following: 73882

(A) Adopt bylaws for the regulation of its affairs and the 73883
conduct of its business; 73884

(B) Adopt an official seal; 73885

(C) Maintain a principal office and suboffices at places 73886
within the state that it designates; 73887

(D) Sue and plead in its own name and be sued and impleaded 73888
in its own name with respect to its contracts or torts of its 73889
members, employees, or agents acting within the scope of their 73890
employment, or to enforce its obligations and covenants made under 73891
sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any 73892
such actions against the authority shall be brought in the court 73893
of common pleas of the county in which the principal office of the 73894
authority is located or in the court of common pleas of the county 73895
in which the cause of action arose, provided that the county is 73896

located within this state, and all summonses, exceptions, and 73897
notices of every kind shall be served on the authority by leaving 73898
a copy thereof at the principal office with the person in charge 73899
thereof or with the secretary-treasurer of the authority. 73900

(E) Make loans and grants to governmental agencies for the 73901
acquisition or construction of water development projects by any 73902
such governmental agency and adopt rules and procedures for making 73903
such loans and grants; 73904

(F) Acquire, construct, reconstruct, enlarge, improve, 73905
furnish, equip, maintain, repair, operate, or lease or rent to, or 73906
contract for operation by, a governmental agency or person, water 73907
development projects, and establish rules for the use of those 73908
projects; 73909

(G) Make available the use or services of any water 73910
development project to one or more persons, one or more 73911
governmental agencies, or any combination thereof; 73912

(H) Issue water development revenue bonds and notes and water 73913
development revenue refunding bonds of the state, payable solely 73914
from revenues as provided in section 6121.06 of the Revised Code, 73915
unless the bonds are refunded by refunding bonds, for the purpose 73916
of paying any part of the cost of one or more water development 73917
projects or parts thereof; 73918

(I) Acquire by gift or purchase, hold, and dispose of real 73919
and personal property in the exercise of its powers and the 73920
performance of its duties under this chapter; 73921

(J) Acquire, in the name of the state, by purchase or 73922
otherwise, on terms and in the manner that it considers proper, or 73923
by the exercise of the right of condemnation in the manner 73924
provided by section 6121.18 of the Revised Code, public or private 73925
lands, including public parks, playgrounds, or reservations, or 73926
parts thereof or rights therein, rights-of-way, property, rights, 73927

easements, and interests that it considers necessary for carrying 73928
out this chapter, but excluding the acquisition by the exercise of 73929
the right of condemnation of any waste water facility or water 73930
management facility owned by any person or governmental agency, 73931
and compensation shall be paid for public or private lands so 73932
taken, except that a government-owned waste water facility may be 73933
appropriated in accordance with section 6121.041 of the Revised 73934
Code; 73935

(K) Adopt rules to protect augmented flow in waters of the 73936
state, to the extent augmented by a water development project, 73937
from depletion so it will be available for beneficial use, and to 73938
provide standards for the withdrawal from waters of the state of 73939
the augmented flow created by a water development project that is 73940
not returned to the waters of the state so augmented and to 73941
establish reasonable charges therefor if considered necessary by 73942
the authority; 73943

(L) Make and enter into all contracts and agreements and 73944
execute all instruments necessary or incidental to the performance 73945
of its duties and the execution of its powers under this chapter 73946
in accordance with the following requirements: 73947

(1) When the cost under any such contract or agreement, other 73948
than compensation for personal services, involves an expenditure 73949
of more than ~~ten~~ twenty-five thousand dollars, the authority shall 73950
make a written contract with the lowest responsive and responsible 73951
bidder, in accordance with section 9.312 of the Revised Code, 73952
after advertisement for not less than two consecutive weeks in a 73953
newspaper of general circulation in Franklin county, and in other 73954
publications that the authority determines, which shall state the 73955
general character of the work and the general character of the 73956
materials to be furnished, the place where plans and 73957
specifications therefor may be examined, and the time and place of 73958
receiving bids, provided that a contract or lease for the 73959

operation of a water development project constructed and owned by 73960
the authority or an agreement for cooperation in the acquisition 73961
or construction of a water development project pursuant to section 73962
6121.13 of the Revised Code or any contract for the construction 73963
of a water development project that is to be leased by the 73964
authority to, and operated by, persons who are not governmental 73965
agencies and the cost of the project is to be amortized 73966
exclusively from rentals or other charges paid to the authority by 73967
persons who are not governmental agencies is not subject to the 73968
foregoing requirements and the authority may enter into such a 73969
contract or lease or such an agreement pursuant to negotiation and 73970
upon terms and conditions and for the period that it finds to be 73971
reasonable and proper in the circumstances and in the best 73972
interests of proper operation or of efficient acquisition or 73973
construction of the project. 73974

(2) Each bid for a contract for the construction, demolition, 73975
alteration, repair, or reconstruction of an improvement shall 73976
contain the full name of every person interested in it and shall 73977
meet the requirements of section 153.54 of the Revised Code. 73978

(3) Each bid for a contract except as provided in division 73979
(L)(2) of this section shall contain the full name of every person 73980
or company interested in it and shall be accompanied by a 73981
sufficient bond or certified check on a solvent bank that if the 73982
bid is accepted, a contract will be entered into and the 73983
performance thereof secured. 73984

(4) The authority may reject any and all bids. 73985

(5) A bond with good and sufficient surety, approved by the 73986
authority, shall be required of every contractor awarded a 73987
contract except as provided in division (L)(2) of this section, in 73988
an amount equal to at least fifty per cent of the contract price, 73989
conditioned upon the faithful performance of the contract. 73990

(M) Employ managers, superintendents, and other employees and 73991
retain or contract with consulting engineers, financial 73992
consultants, accounting experts, architects, attorneys, and other 73993
consultants and independent contractors that are necessary in its 73994
judgment to carry out this chapter, and fix the compensation 73995
thereof. All expenses thereof shall be payable solely from the 73996
proceeds of water development revenue bonds or notes issued under 73997
this chapter, from revenues, or from funds appropriated for that 73998
purpose by the general assembly. 73999

(N) Receive and accept from any federal agency, subject to 74000
the approval of the governor, grants for or in aid of the 74001
construction of any water development project or for research and 74002
development with respect to waste water or water management 74003
facilities, and receive and accept aid or contributions from any 74004
source of money, property, labor, or other things of value, to be 74005
held, used, and applied only for the purposes for which the grants 74006
and contributions are made; 74007

(O) Engage in research and development with respect to waste 74008
water or water management facilities; 74009

(P) Purchase fire and extended coverage and liability 74010
insurance for any water development project and for the principal 74011
office and suboffices of the authority, insurance protecting the 74012
authority and its officers and employees against liability for 74013
damage to property or injury to or death of persons arising from 74014
its operations, and any other insurance the authority may agree to 74015
provide under any resolution authorizing its water development 74016
revenue bonds or in any trust agreement securing the same; 74017

(Q) Charge, alter, and collect rentals and other charges for 74018
the use or services of any water development project as provided 74019
in section 6121.13 of the Revised Code; 74020

(R) Provide coverage for its employees under Chapters 145., 74021

4123., and 4141. of the Revised Code; 74022

(S) Assist in the implementation and administration of the 74023
drinking water assistance fund and program created in section 74024
6109.22 of the Revised Code and the water pollution control loan 74025
fund and program created in section 6111.036 of the Revised Code, 74026
including, without limitation, performing or providing fiscal 74027
management for the funds and investing and disbursing moneys in 74028
the funds, and enter into all necessary and appropriate agreements 74029
with the director of environmental protection for those purposes; 74030

(T) Issue water development revenue bonds and notes of the 74031
state in principal amounts that are necessary for the purpose of 74032
raising moneys for the sole benefit of the water pollution control 74033
loan fund created in section 6111.036 of the Revised Code, 74034
including moneys to meet the requirement for providing matching 74035
moneys under division (D) of that section. The bonds and notes may 74036
be secured by appropriate trust agreements and repaid from moneys 74037
credited to the fund from payments of principal and interest on 74038
loans made from the fund, as provided in division (F) of section 74039
6111.036 of the Revised Code. 74040

(U) Issue water development revenue bonds and notes of the 74041
state in principal amounts that are necessary for the purpose of 74042
raising moneys for the sole benefit of the drinking water 74043
assistance fund created in section 6109.22 of the Revised Code, 74044
including moneys to meet the requirement for providing matching 74045
moneys under divisions (B) and (F) of that section. The bonds and 74046
notes may be secured by appropriate trust agreements and repaid 74047
from moneys credited to the fund from payments of principal and 74048
interest on loans made from the fund, as provided in division (F) 74049
of section 6109.22 of the Revised Code. 74050

(V) Make loans to and enter into agreements with boards of 74051
county commissioners for the purposes of section 1521.26 of the 74052

Revised Code and adopt rules establishing requirements and 74053
procedures for making the loans and entering into the agreements; 74054

(W) Do all acts necessary or proper to carry out the powers 74055
expressly granted in this chapter. 74056

Any instrument by which real property is acquired pursuant to 74057
this section shall identify the agency of the state that has the 74058
use and benefit of the real property as specified in section 74059
5301.012 of the Revised Code. 74060

Sec. 6123.04. For the purposes of this chapter, the Ohio 74061
water development authority may: 74062

(A) Adopt bylaws for the regulation of its affairs and the 74063
conduct of its business under this chapter; 74064

(B) Sue and plead in its own name; be sued and impleaded in 74065
its own name with respect to its contracts or torts of its 74066
members, employees, or agents acting within the scope of their 74067
employment, or to enforce its obligations and covenants made under 74068
sections 6123.06, 6123.08, and 6123.13 of the Revised Code. Any 74069
such actions against the authority shall be brought in the court 74070
of common pleas of the county in which the principal office of the 74071
authority is located, or in the court of common pleas of the 74072
county in which the cause of action arose, provided such county is 74073
located within this state, and all summonses, exceptions, and 74074
notices of every kind shall be served on the authority by leaving 74075
a copy thereof at the principal office with the person in charge 74076
thereof or with the secretary-treasurer of the authority. 74077

(C) Make loans and grants to governmental agencies for the 74078
acquisition or construction of development projects by any such 74079
governmental agency and adopt rules and procedures for making such 74080
loans and grants; 74081

(D) Acquire, construct, reconstruct, enlarge, improve, 74082

furnish, equip, maintain, repair, operate, lease or rent to, or
contract for operation by, a person or governmental agency,
development projects, and establish rules for the use of such
projects;

(E) Make available the use or services of any development
project to one or more persons, one or more governmental agencies,
or any combination thereof;

(F) Issue development revenue bonds and notes and development
revenue refunding bonds of the state, payable solely from revenues
as provided in section 6123.06 of the Revised Code, unless the
bonds be refunded by refunding bonds, for the purpose of paying
any part of the cost of one or more development projects or parts
thereof;

(G) Acquire by gift or purchase, hold, and dispose of real
and personal property in the exercise of the powers of the
authority and the performance of its duties under this chapter;

(H) Acquire, in the name of the state, by purchase or
otherwise, on such terms and in such manner as the authority
determines proper, public or private lands, or parts thereof or
rights therein, rights-of-way, property, rights, easements, and
interests as it finds necessary for carrying out this chapter; and
compensation shall be paid for public or private lands so taken;

(I) Make and enter into all contracts and agreements and
execute all instruments necessary or incidental to the performance
of its duties and the execution of its powers under this chapter:

(1) When the cost under any such contract or agreement, other
than compensation for personal services, involves an expenditure
of more than ~~two~~ twenty-five thousand dollars, the authority 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 Franklin county, and in such 74114
other publications as the authority determines, such notice shall 74115
state the general character of the work and materials to be 74116
furnished, the place where plans and specifications therefor may 74117
be examined, and the time and place of receiving bids. Provided, 74118
that a contract or lease for the operation of a development 74119
project constructed and owned by the authority or an agreement for 74120
cooperation in the acquisition or construction of a development 74121
project pursuant to section 6123.13 of the Revised Code or any 74122
contract for the construction of a development project that is to 74123
be leased by the authority to, and operated by, persons who are 74124
not governmental agencies and the cost of such project is to be 74125
amortized exclusively from rentals or other charges paid to the 74126
authority by persons who are not governmental agencies or by 74127
governmental agencies that receive the use or services of such 74128
project, including governmental agencies that are parties to an 74129
agreement for cooperation in the acquisition or construction of 74130
such development project pursuant to section 6123.13 of the 74131
Revised Code, is not subject to the foregoing requirements and the 74132
authority may enter into such contract or lease or such agreement 74133
pursuant to negotiation and upon such terms and conditions and for 74134
such period as it finds to be reasonable and proper in the 74135
circumstances and in the best interests of proper operation or of 74136
efficient acquisition or construction of such project. 74137

(2) Each bid for a contract for the construction, demolition, 74138
alteration, repair, or reconstruction of an improvement shall 74139
contain the full name of every person interested in it and who 74140
meets the requirements of section 153.54 of the Revised Code. 74141

(3) Each bid for a contract, except as provided in division 74142
(I)(2) of this section, shall contain the full name of every 74143
person or company interested in it and shall be accompanied by a 74144
sufficient bond or certified check on a solvent bank that if the 74145

bid is accepted a contract will be entered into and the 74146
performance thereof secured. 74147

(4) The authority may reject any and all bids. 74148

(5) A bond with good and sufficient surety, approved by the 74149
authority, shall be required of every contractor awarded a 74150
contract except as provided in division (I)(2) of this section, in 74151
an amount equal to at least fifty per cent of the contract price, 74152
conditioned upon the faithful performance of the contract. 74153

(J) Employ managers, superintendents, and other employees and 74154
retain or contract with consulting engineers, financial 74155
consultants, accounting experts, architects, attorneys, and such 74156
other consultants and independent contractors as are necessary in 74157
its judgment to carry out this chapter, and fix the compensation 74158
thereof. All expenses thereof shall be payable solely from the 74159
proceeds of development revenue bonds or notes issued under this 74160
chapter, from revenues, or from funds appropriated for such 74161
purpose by the general assembly. 74162

(K) Receive and accept from any federal agency, subject to 74163
the approval of the governor, grants for or in aid of the 74164
construction of any development project or for research and 74165
development with respect to solid waste facilities or energy 74166
resource development facilities, and receive and accept aid or 74167
contributions from any source of money, property, labor, or other 74168
things of value, to be held, used, and applied only for the 74169
purposes for which such grants and contributions are made; 74170

(L) Engage in research and development with respect to solid 74171
waste facilities or energy resource development facilities; 74172

(M) Purchase fire and extended coverage and liability 74173
insurance for any development project and for the principal office 74174
and sub-offices of the authority, insurance protecting the 74175
authority and its officers and employees against liability for 74176

damage to property or injury to or death of persons arising from 74177
its operations, and any other insurance the authority may agree to 74178
provide under any resolution authorizing its development revenue 74179
bonds or in any trust agreement securing the same; 74180

(N) Charge, alter, and collect rentals and other charges for 74181
the use or services of any development project as provided in 74182
section 6123.13 of the Revised Code; 74183

(O) Provide coverage for its employees under Chapters 145., 74184
4123., and 4141. of the Revised Code; 74185

(P) Do all acts necessary or proper to carry out the powers 74186
expressly granted in this chapter. 74187

Any instrument by which real property is acquired pursuant to 74188
this section shall identify the agency of the state that has the 74189
use and benefit of the real property as specified in section 74190
5301.012 of the Revised Code. 74191

Section 101.02. That existing sections 9.24, 101.68, 102.02, 74192
105.41, 108.05, 109.54, 109.57, 109.60, 109.79, 109.91, 117.10, 74193
120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 74194
122.17, 122.171, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 74195
122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 74196
122.95, 122.951, 123.01, 123.152, 124.07, 124.321, 124.328, 74197
125.041, 125.05, 125.09, 125.11, 125.831, 125.832, 126.25, 127.16, 74198
131.02, 131.23, 133.09, 140.01, 140.08, 141.011, 141.04, 147.05, 74199
147.10, 147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 173.26, 74200
173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 74201
183.28, 184.02, 305.171, 307.37, 307.695, 307.76, 307.86, 307.88, 74202
317.08, 317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 74203
329.04, 329.051, 339.72, 339.88, 340.03, 340.16, 731.14, 731.141, 74204
742.59, 901.43, 903.05, 905.32, 905.33, 905.331, 905.36, 905.37, 74205
905.38, 905.381, 905.50, 905.501, 905.66, 907.16, 911.02, 913.02, 74206

913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 74207
923.46, 927.69, 1327.511, 1327.62, 1327.99, 1502.02, 1509.06, 74208
1509.072, 1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 74209
1533.11, 1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 74210
1711.53, 1713.03, 1751.03, 1751.89, 1901.26, 1901.31, 1907.24, 74211
2113.041, 2151.352, 2151.416, 2152.43, 2152.44, 2152.74, 2303.201, 74212
2305.234, 2329.66, 2743.191, 2744.05, 2744.08, 2901.07, 2913.40, 74213
2921.13, 2923.25, 2929.13, 2929.14, 2967.05, 2967.13, 2971.051, 74214
3107.10, 3111.04, 3119.54, 3121.12, 3121.50, 3125.18, 3301.079, 74215
3301.0710, 3301.0711, 3301.0714, 3301.0715, 3301.12, 3301.16, 74216
3301.311, 3301.32, 3301.86, 3301.88, 3302.03, 3311.059, 3313.207, 74217
3313.208, 3313.209, 3313.489, 3313.975, 3313.976, 3313.977, 74218
3313.978, 3313.98, 3314.01, 3314.013, 3314.015, 3314.02, 3314.021, 74219
3314.03, 3314.031, 3314.032, 3314.033, 3314.034, 3314.06, 74220
3314.074, 3314.08, 3314.13, 3315.17, 3315.18, 3315.37, 3316.06, 74221
3316.16, 3317.01, 3317.013, 3317.02, 3317.021, 3317.022, 3317.023, 74222
3317.024, 3317.026, 3317.027, 3317.028, 3317.029, 3317.0216, 74223
3317.0217, 3317.03, 3317.031, 3317.05, 3317.052, 3317.053, 74224
3317.06, 3317.063, 3317.081, 3317.09, 3317.10, 3317.16, 3317.20, 74225
3317.21, 3317.22, 3317.23, 3317.50, 3317.51, 3318.091, 3318.33, 74226
3319.081, 3319.17, 3319.22, 3319.235, 3319.55, 3323.021, 3323.091, 74227
3323.14, 3323.16, 3327.01, 3332.092, 3333.04, 3333.044, 3333.12, 74228
3333.121, 3333.27, 3333.28, 3333.38, 3334.01, 3334.02, 3334.03, 74229
3334.07, 3334.08, 3334.09, 3334.10, 3334.11, 3334.12, 3334.15, 74230
3334.16, 3334.17, 3334.18, 3334.19, 3345.10, 3345.32, 3353.01, 74231
3353.04, 3353.06, 3353.07, 3362.02, 3365.01, 3365.02, 3375.48, 74232
3375.49, 3375.54, 3375.55, 3381.15, 3383.02, 3383.09, 3501.17, 74233
3701.023, 3701.146, 3701.65, 3702.141, 3702.51, 3702.68, 3702.71, 74234
3702.74, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06, 3703.07, 74235
3703.08, 3703.10, 3703.99, 3704.035, 3704.143, 3704.99, 3705.24, 74236
3709.29, 3709.34, 3712.03, 3714.07, 3721.01, 3721.011, 3721.02, 74237
3721.03, 3721.07, 3721.15, 3721.21, 3721.50, 3721.51, 3721.52, 74238

3721.56, 3721.58, 3722.01, 3722.02, 3722.04, 3734.01, 3734.20, 74239
3734.21, 3734.22, 3734.23, 3734.28, 3734.57, 3734.573, 3734.85, 74240
3734.901, 3734.9010, 3735.27, 3743.01, 3743.02, 3743.04, 3743.05, 74241
3743.06, 3743.15, 3743.17, 3743.18, 3743.19, 3743.57, 3743.59, 74242
3743.65, 3743.75, 3745.11, 3745.12, 3746.04, 3746.071, 3748.07, 74243
3748.13, 3773.34, 3773.38, 3773.39, 3773.40, 3773.57, 3781.07, 74244
3781.10, 3781.102, 3793.09, 3901.021, 3901.17, 3901.78, 3903.14, 74245
3903.42, 3905.04, 3905.36, 3905.40, 3923.27, 4112.12, 4115.03, 74246
4115.032, 4115.071, 4115.21, 4115.32, 4115.34, 4117.10, 4117.24, 74247
4123.27, 4301.10, 4301.43, 4303.182, 4501.01, 4501.37, 4503.103, 74248
4503.471, 4503.48, 4503.50, 4503.53, 4503.571, 4503.59, 4503.73, 74249
4503.85, 4503.91, 4505.06, 4506.07, 4511.191, 4511.75, 4517.01, 74250
4519.01, 4519.02, 4519.09, 4561.17, 4561.18, 4561.21, 4703.15, 74251
4705.09, 4709.05, 4713.02, 4723.32, 4723.63, 4731.65, 4731.71, 74252
4736.11, 4736.12, 4740.14, 4753.03, 4753.06, 4753.071, 4753.08, 74253
4753.09, 4755.48, 4775.04, 4905.10, 4905.54, 4905.95, 4911.02, 74254
4911.18, 4973.171, 5101.16, 5101.181, 5101.21, 5101.241, 5101.26, 74255
5101.31, 5101.35, 5101.36, 5101.46, 5101.47, 5101.75, 5101.752, 74256
5101.80, 5101.801, 5101.821, 5104.01, 5104.02, 5104.32, 5104.38, 74257
5107.05, 5107.10, 5107.26, 5107.30, 5107.58, 5110.01, 5110.05, 74258
5110.352, 5110.39, 5111.011, 5111.019, 5111.0112, 5111.02, 74259
5111.021, 5111.023, 5111.025, 5111.042, 5111.06, 5111.082, 74260
5111.11, 5111.111, 5111.113, 5111.16, 5111.17, 5111.19, 5111.20, 74261
5111.204, 5111.21, 5111.22, 5111.221, 5111.23, 5111.231, 5111.235, 74262
5111.24, 5111.241, 5111.25, 5111.251, 5111.255, 5111.257, 5111.26, 74263
5111.261, 5111.263, 5111.264, 5111.27, 5111.28, 5111.29, 5111.291, 74264
5111.30, 5111.31, 5111.32, 5111.33, 5111.62, 5111.81, 5111.85, 74265
5111.87, 5111.871, 5111.88, 5111.911, 5111.97, 5111.99, 5112.03, 74266
5112.08, 5112.17, 5112.30, 5112.31, 5115.20, 5115.22, 5115.23, 74267
5119.61, 5120.09, 5120.16, 5120.48, 5120.51, 5121.01, 5121.02, 74268
5121.03, 5121.04, 5121.05, 5121.06, 5121.061, 5121.07, 5121.08, 74269
5121.09, 5121.10, 5121.11, 5121.12, 5121.21, 5122.03, 5122.31, 74270

5123.01, 5123.045, 5123.046, 5123.047, 5123.049, 5123.0412, 74271
5123.34, 5123.41, 5123.701, 5123.71, 5123.76, 5126.01, 5126.035, 74272
5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 5126.12, 74273
5139.01, 5139.36, 5153.16, 5502.01, 5531.10, 5540.01, 5540.09, 74274
5552.01, 5703.052, 5703.053, 5703.26, 5703.47, 5703.50, 5703.70, 74275
5703.80, 5703.99, 5705.091, 5705.19, 5705.391, 5711.21, 5711.22, 74276
5711.28, 5715.24, 5719.041, 5725.01, 5725.19, 5727.01, 5727.02, 74277
5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 74278
5727.47, 5727.81, 5727.82, 5727.84, 5727.85, 5727.99, 5728.01, 74279
5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5728.99, 5729.08, 74280
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 74281
5731.23, 5731.39, 5731.41, 5731.99, 5733.01, 5733.065, 5733.066, 74282
5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 74283
5733.99, 5735.99, 5737.03, 5739.01, 5739.02, 5739.021, 5739.025, 74284
5739.026, 5739.03, 5739.033, 5739.034, 5739.035, 5739.09, 5739.10, 74285
5739.16, 5739.17, 5739.99, 5741.02, 5741.16, 5741.99, 5743.01, 74286
5743.02, 5743.03, 5743.05, 5743.071, 5743.08, 5743.10, 5743.111, 74287
5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 74288
5743.32, 5743.33, 5743.99, 5747.01, 5747.02, 5747.05, 5747.08, 74289
5747.212, 5747.331, 5747.70, 5747.80, 5747.98, 5747.99, 5749.02, 74290
5907.15, 5919.33, 5920.01, 6109.21, 6111.02, 6121.04, and 6123.04 74291
of the Revised Code are hereby repealed. Existing Section 41.36 of 74292
Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 74293

Section 105.01. That sections 181.53, 339.77, 742.36, 74294
1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 74295
3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.012, 3317.0212, 74296
3317.0213, 3353.02, 3353.03, 3501.141, 3704.14, 3704.142, 3704.17, 74297
3721.511, 3901.41, 3901.781, 3901.782, 3901.783, 3901.784, 74298
4115.16, 4519.06, 4519.07, 5101.751, 5101.753, 5101.754, 5111.041, 74299
5111.205, 5111.262, 5111.34, 5115.10, 5115.11, 5115.12, 5115.13, 74300
5115.14, 5123.041, 5123.048, 5731.20, 5733.122, and 6111.028 of 74301

the Revised Code are hereby repealed. 74302

Section 200.01. Except as otherwise provided, all 74303
 appropriation items (AI) in this act are appropriated out of any 74304
 moneys in the state treasury to the credit of the designated fund 74305
 that are not otherwise appropriated. For all appropriations made 74306
 in this act, the amounts in the first column are for fiscal year 74307
 2006 and the amounts in the second column are for fiscal year 74308
 2007. 74309

FND AI	AI TITLE	APPROPRIATIONS	74310
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Section 203.03. ACC ACCOUNTANCY BOARD OF OHIO 74311

General Services Fund Group 74312

4J8 889-601	CPA Education	\$	209,510	\$	209,510	74313
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Assistance

4K9 889-609	Operating Expenses	\$	1,069,776	\$	1,069,776	74314
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TOTAL GSF General Services Fund 74315

Group		\$	1,279,286	\$	1,279,286	74316
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TOTAL ALL BUDGET FUND GROUPS		\$	1,279,286	\$	1,279,286	74317
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Section 203.06. PAY ACCRUED LEAVE LIABILITY 74319

Accrued Leave Liability Fund Group 74320

806 995-666	Accrued Leave Fund	\$	68,846,630	\$	77,950,372	74321
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807 995-667	Disability Fund	\$	48,057,723	\$	50,955,496	74322
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TOTAL ALF Accrued Leave Liability 74323

Fund Group		\$	116,904,353	\$	128,905,868	74324
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Agency Fund Group 74325

808 995-668	State Employee Health	\$	480,879,258	\$	550,922,742	74326
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Benefit Fund

809 995-669	Dependent Care	\$	2,801,543	\$	2,969,635	74327
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Spending Account

810 995-670	Life Insurance	\$	1,943,789	\$	2,031,381	74328
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	Investment Fund				
811	995-671	Parental Leave Benefit	\$ 4,040,434	\$ 4,282,860	74329
	Fund				
813	995-672	Health Care Spending	\$ 8,000,000	\$ 12,000,000	74330
	Account				
	TOTAL AGY Agency Fund Group		\$ 497,665,024	\$ 572,206,618	74331
	TOTAL ALL BUDGET FUND GROUPS		\$ 614,569,377	\$ 701,112,486	74332

ACCRUED LEAVE LIABILITY FUND 74333

The foregoing appropriation item 995-666, Accrued Leave Fund, 74334
shall be used to make payments from the Accrued Leave Liability 74335
Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 74336
If it is determined by the Director of Budget and Management that 74337
additional amounts are necessary, the amounts are appropriated. 74338

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 74339

The foregoing appropriation item 995-667, Disability Fund, 74340
shall be used to make payments from the State Employee Disability 74341
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 74342
Revised Code. If it is determined by the Director of Budget and 74343
Management that additional amounts are necessary, the amounts are 74344
appropriated. 74345

STATE EMPLOYEE HEALTH BENEFIT FUND 74346

The foregoing appropriation item 995-668, State Employee 74347
Health Benefit Fund, shall be used to make payments from the State 74348
Employee Health Benefit Fund (Fund 808), pursuant to section 74349
124.87 of the Revised Code. If it is determined by the Director of 74350
Budget and Management that additional amounts are necessary, the 74351
amounts are appropriated. 74352

Effective July 1, 2005, or as soon thereafter as possible, 74353
the Director of Budget and Management may transfer up to \$70,000 74354
in cash from the General Revenue Fund to the State Employee Health 74355
Benefit Fund (Fund 808). The amount of the transfer shall not 74356

exceed the amount of cash transferred from the State Employee 74357
Health Benefit Fund to the Health Care Spending Account Fund (Fund 74358
813) during fiscal year 2005. 74359

DEPENDENT CARE SPENDING ACCOUNT 74360

The foregoing appropriation item 995-669, Dependent Care 74361
Spending Account, shall be used to make payments from the 74362
Dependent Care Spending Account (Fund 809) to employees eligible 74363
for dependent care expenses. If it is determined by the Director 74364
of Budget and Management that additional amounts are necessary, 74365
the amounts are appropriated. 74366

LIFE INSURANCE INVESTMENT FUND 74367

The foregoing appropriation item 995-670, Life Insurance 74368
Investment Fund, shall be used to make payments from the Life 74369
Insurance Investment Fund (Fund 810) for the costs and expenses of 74370
the state's life insurance benefit program pursuant to section 74371
125.212 of the Revised Code. If it is determined by the Director 74372
of Budget and Management that additional amounts are necessary, 74373
the amounts are appropriated. 74374

PARENTAL LEAVE BENEFIT FUND 74375

The foregoing appropriation item 995-671, Parental Leave 74376
Benefit Fund, shall be used to make payments from the Parental 74377
Leave Benefit Fund (Fund 811) to employees eligible for parental 74378
leave benefits pursuant to section 124.137 of the Revised Code. If 74379
it is determined by the Director of Budget and Management that 74380
additional amounts are necessary, the amounts are appropriated. 74381

HEALTH CARE SPENDING ACCOUNT 74382

There is hereby established in the State Treasury the Health 74383
Care Spending Account Fund (Fund 813). The foregoing appropriation 74384
item 995-672, Health Care Spending Account, shall be used to make 74385
payments from the fund. The fund shall be under the supervision of 74386

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
GRF 745-401 Ohio Military Reserve \$ 15,188 \$ 15,188
GRF 745-404 Air National Guard \$ 1,939,762 \$ 1,939,762
GRF 745-407 National Guard \$ 1,400,000 \$ 1,400,000
Benefits

GRF 745-409	Central Administration	\$	3,899,590	\$	3,899,590	74417
GRF 745-499	Army National Guard	\$	4,086,222	\$	4,086,222	74418
GRF 745-502	Ohio National Guard	\$	102,973	\$	102,973	74419
	Unit Fund					
TOTAL GRF	General Revenue Fund	\$	11,443,735	\$	11,443,735	74420
	General Services Fund Group					74421
534 745-612	Armory Improvements	\$	534,304	\$	534,304	74422
536 745-620	Camp Perry/Buckeye Inn	\$	1,094,970	\$	1,094,970	74423
	Operations					
537 745-604	Ohio National Guard	\$	219,826	\$	219,826	74424
	Facility Maintenance					
TOTAL GSF	General Services Fund	\$	1,849,100	\$	1,849,100	74425
	Group					
	Federal Special Revenue Fund Group					74426
3E8 745-628	Air National Guard	\$	12,174,760	\$	12,174,760	74427
	Agreement					
3R8 745-603	Counter Drug	\$	25,000	\$	25,000	74428
	Operations					
341 745-615	Air National Guard	\$	2,424,740	\$	2,424,740	74429
	Base Security					
342 745-616	Army National Guard	\$	8,686,893	\$	8,686,893	74430
	Agreement					
TOTAL FED	Federal Special Revenue	\$	23,311,393	\$	23,311,393	74431
	Fund Group					
	State Special Revenue Fund Group					74432
5U8 745-613	Community Match	\$	90,000	\$	91,800	74433
	Armories					
528 745-605	Marksmanship	\$	126,078	\$	128,600	74434
	Activities					
TOTAL SSR	State Special Revenue	\$	216,078	\$	220,400	74435
	Fund Group					
TOTAL ALL	BUDGET FUND GROUPS	\$	36,820,306	\$	36,824,628	74436

NATIONAL GUARD BENEFITS				74437
The foregoing appropriation item 745-407, National Guard				74438
Benefits, shall be used for purposes of sections 5919.31 and				74439
5919.33 of the Revised Code, and for administrative costs of the				74440
associated programs.				74441
NATIONAL GUARD BENEFITS				74442
For active duty members of the Ohio National Guard who died				74443
after October 7, 2001, while performing active duty, the death				74444
benefit, pursuant to section 5919.33 of the Revised Code, shall be				74445
paid to the beneficiary or beneficiaries designated on the				74446
member's Servicemembers' Group Life Insurance Policy.				74447
Section 203.12. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES				74448
General Revenue Fund				74449
GRF 100-404 CRP Procurement	\$	248,040	\$ 268,040	74450
Program				
GRF 100-405 Agency Audit Expenses	\$	329,000	\$ 329,000	74451
GRF 100-406 County & University	\$	60,000	\$ 60,000	74452
Human Resources				
Services				
GRF 100-410 Veterans' Records	\$	69,000	\$ 48,600	74453
Conversion				
GRF 100-418 Web Sites and Business	\$	3,275,280	\$ 3,275,280	74454
Gateway				
GRF 100-419 IT Security	\$	1,636,247	\$ 1,636,247	74455
Infrastructure				
GRF 100-421 OAKS Project	\$	484,000	\$ 410,839	74456
Implementation				
GRF 100-433 State of Ohio Computer	\$	4,991,719	\$ 4,991,719	74457
Center				
GRF 100-439 Equal Opportunity	\$	726,481	\$ 728,384	74458

		Certification Programs				
GRF 100-447	OBA - Building Rent	\$	115,740,400	\$	116,091,300	74459
	Payments					
GRF 100-448	OBA - Building	\$	25,393,250	\$	25,647,183	74460
	Operating Payments					
GRF 100-449	DAS - Building	\$	4,160,383	\$	4,170,623	74461
	Operating Payments					
GRF 100-451	Minority Affairs	\$	47,000	\$	47,000	74462
GRF 100-734	Major Maintenance -	\$	50,000	\$	50,000	74463
	State Bldgs					
GRF 102-321	Construction	\$	1,190,959	\$	1,206,779	74464
	Compliance					
GRF 130-321	State Agency Support	\$	2,693,788	\$	2,668,986	74465
	Services					
TOTAL GRF	General Revenue Fund	\$	161,095,547	\$	161,629,980	74466
	General Services Fund Group					74467
112 100-616	DAS Administration	\$	5,221,393	\$	5,299,427	74468
115 100-632	Central Service Agency	\$	466,517	\$	485,178	74469
117 100-644	General Services	\$	6,834,247	\$	7,245,772	74470
	Division - Operating					
122 100-637	Fleet Management	\$	4,025,043	\$	4,032,968	74471
125 100-622	Human Resources	\$	18,864,179	\$	19,220,614	74472
	Division - Operating					
127 100-627	Vehicle Liability	\$	3,344,644	\$	3,344,644	74473
	Insurance					
128 100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	74474
130 100-606	Risk Management	\$	223,904	\$	223,904	74475
	Reserve					
131 100-639	State Architect's	\$	6,977,274	\$	7,047,427	74476
	Office					
132 100-631	DAS Building	\$	10,721,430	\$	11,066,228	74477
	Management					
133 100-607	IT Services Delivery	\$	81,418,432	\$	80,345,564	74478

188	100-649	Equal Opportunity	\$	993,378	\$	1,010,256	74479
		Division - Operating					
201	100-653	General Services	\$	1,553,000	\$	1,553,000	74480
		Resale Merchandise					
210	100-612	State Printing	\$	5,931,421	\$	5,931,421	74481
229	100-630	IT Governance	\$	18,531,812	\$	17,601,712	74482
4N6	100-617	Major IT Purchases	\$	10,617,166	\$	10,617,166	74483
4P3	100-603	DAS Information	\$	5,902,099	\$	6,117,004	74484
		Services					
427	100-602	Investment Recovery	\$	5,580,208	\$	5,683,564	74485
5C2	100-605	MARCS Administration	\$	9,268,178	\$	9,268,178	74486
5C3	100-608	Skilled Trades	\$	1,406,278	\$	1,434,982	74487
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	74488
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	74489
		Development					
5V6	100-619	Employee Educational	\$	936,129	\$	936,129	74490
		Development					
TOTAL GSF General Services Fund							74491
Group			\$	216,927,684	\$	216,576,090	74492
Federal Special Revenue Fund Group							74493
3AJ	100-623	Information Technology	\$	82,048	\$	82,048	74494
		Grants					
TOTAL FSR Federal Special Revenue			\$	82,048	\$	82,048	74495
Fund Group							
Agency Fund Group							74496
124	100-629	Payroll Deductions	\$	2,050,000,000	\$	2,050,000,000	74497
TOTAL AGY Agency Fund Group			\$	2,050,000,000	\$	2,050,000,000	74498
Holding Account Redistribution Fund Group							74499
R08	100-646	General Services	\$	20,000	\$	20,000	74500
		Refunds					
TOTAL 090 Holding Account							74501
Redistribution Fund Group			\$	20,000	\$	20,000	74502

TOTAL ALL BUDGET FUND GROUPS \$ 2,428,125,279 \$ 2,428,308,118 74503

Section 203.12.01. TRANSFERS OF STATE USE PROGRAM FROM THE 74505
DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 74506

Effective July 1, 2005, or the earliest date thereafter 74507
permitted by law, the State Committee for the Purchase of Products 74508
and Services Provided by Persons with Severe Disabilities created 74509
by sections 4115.31 to 4115.35 of the Revised Code is part of the 74510
Department of Administrative Services. The committee's functions, 74511
assets, and liabilities, including, but not limited to, records 74512
regardless of form or medium, are transferred to the Department of 74513
Administrative Services. The Department of Administrative Services 74514
is thereupon and thereafter successor to, assumes the obligations 74515
of, and otherwise constitutes the continuation of the State 74516
Committee for the Purchase of Products and Services Provided by 74517
Persons with Severe Disabilities. The functions of the Executive 74518
Director of the committee are thereupon and thereafter transferred 74519
to the Department of Administrative Services. 74520

Any business commenced but not completed by the committee on 74521
June 30, 2005, shall be completed by the Department of 74522
Administrative Services, in the same manner, and with the same 74523
effect, as if completed by the committee. No validation, cure, 74524
right, privilege, remedy, obligation, or liability is lost or 74525
impaired by reason of the transfer required under this section and 74526
shall be administered by the Department of Administrative 74527
Services. All of the committee's rules, orders, and determinations 74528
continue in effect as rules, orders, and determinations of the 74529
Department of Administrative Services, until modified or rescinded 74530
by the Department of Administrative Services. If necessary to 74531
ensure the integrity of the Administrative Code numbering system, 74532
the Director of the Legislative Service Commission shall renumber 74533
the committee's rules to reflect their transfer to the Department 74534

of Administrative Services. 74535

Employees of the Department of Mental Retardation and 74536
Developmental Disabilities designated as staff for the committee 74537
shall be transferred to the Department of Administrative Services 74538
as necessary. Subject to lay-off provisions of sections 124.321 to 74539
124.328 of the Revised Code, as well as provisions of the contract 74540
between the state and all bargaining units affected, those 74541
employees so transferred to the Department of Administrative 74542
Services retain their positions and all benefits accruing thereto. 74543

No judicial or administrative action or proceeding to which 74544
the committee is a party that is pending on July 1, 2005, is 74545
affected by the transfer of functions. Such action or proceeding 74546
shall be prosecuted or defended in the name of the Director of the 74547
Department of Administrative Services. On application to the court 74548
or other tribunal, the Director of Administrative Services shall 74549
be substituted for the Director of Mental Retardation and 74550
Developmental Disabilities as a party to such action or 74551
proceeding. 74552

On and after July 1, 2005, notwithstanding any provision of 74553
law to the contrary, the Director of Budget and Management shall 74554
take the actions with respect to budget changes made necessary by 74555
the transfer, including administrative reorganization, program 74556
transfers, the creation of new funds, and the consolidation of 74557
funds as authorized by this section. The Director may cancel 74558
encumbrances and re-establish encumbrances or parts of 74559
encumbrances as needed in fiscal year 2006 in the appropriate fund 74560
and appropriation item for the same purpose and to the same 74561
vendor. The Director, as determined necessary, may re-establish 74562
such encumbrances in fiscal year 2006 in a different fund or 74563
appropriation item within an agency or between agencies. The 74564
re-established encumbrances are here by appropriated. The Director 74565
shall reduce each year's appropriation balances by the amount of 74566

the encumbrance canceled in their respective funds and 74567
appropriation item. 74568

Not later than sixty days after the transfer of the committee 74569
to the Department of Administrative Services, the Director of 74570
Mental Retardation and Developmental Disabilities shall certify to 74571
the Director of Budget and Management the amount of any unexpended 74572
balance of General Revenue Fund appropriations made to GRF 74573
appropriation item 322-405, State Use Program. Upon receipt of the 74574
certification, the Director of Budget and Management shall 74575
transfer the appropriations from GRF appropriation item 322-405, 74576
State Use Program, to GRF appropriation item 100-404, CRP 74577
Procurement Program. 74578

Section 203.12.03. AGENCY AUDIT EXPENSES 74579

The foregoing appropriation item 100-405, Agency Audit 74580
Expenses, shall be used for auditing expenses designated in 74581
division (A)(1) of section 117.13 of the Revised Code for those 74582
state agencies audited on a biennial basis. 74583

Section 203.12.06. OHIO BUILDING AUTHORITY 74584

The foregoing appropriation item 100-447, OBA - Building Rent 74585
Payments, shall be used to meet all payments at the times they are 74586
required to be made during the period from July 1, 2005, to June 74587
30, 2007, by the Department of Administrative Services to the Ohio 74588
Building Authority pursuant to leases and agreements under Chapter 74589
152. of the Revised Code, but limited to the aggregate amount of 74590
\$231,831,700. These appropriations are the source of funds pledged 74591
for bond service charges on obligations issued pursuant to Chapter 74592
152. of the Revised Code. 74593

The foregoing appropriation item 100-448, OBA - Building 74594
Operating Payments, shall be used to meet all payments at the 74595
times that they are required to be made during the period from 74596

July 1, 2005, to June 30, 2007, by the Department of 74597
Administrative Services to the Ohio Building Authority pursuant to 74598
leases and agreements under Chapter 152. of the Revised Code, but 74599
limited to the aggregate amount of \$51,040,433. 74600

The payments to the Ohio Building Authority are for the 74601
purpose of paying the expenses of agencies that occupy space in 74602
the various state facilities. The Department of Administrative 74603
Services may enter into leases and agreements with the Ohio 74604
Building Authority providing for the payment of these expenses. 74605
The Ohio Building Authority shall report to the Department of 74606
Administrative Services and the Office of Budget and Management 74607
not later than five months after the start of a fiscal year the 74608
actual expenses incurred by the Ohio Building Authority in 74609
operating the facilities and any balances remaining from payments 74610
and rentals received in the prior fiscal year. The Department of 74611
Administrative Services shall reduce subsequent payments by the 74612
amount of the balance reported to it by the Ohio Building 74613
Authority. 74614

Section 203.12.09. DAS - BUILDING OPERATING PAYMENTS 74615

The foregoing appropriation item 100-449, DAS - Building 74616
Operating Payments, shall be used to pay the rent expenses of 74617
veterans organizations pursuant to section 123.024 of the Revised 74618
Code in fiscal years 2006 and 2007. 74619

The foregoing appropriation item, 100-449, DAS - Building 74620
Operating Payments, may be used to provide funding for the cost of 74621
property appraisals or building studies that the Department of 74622
Administrative Services may be required to obtain for property 74623
that is being sold by the state or property under consideration to 74624
be renovated or purchased by the state. 74625

Notwithstanding section 125.28 of the Revised Code, the 74626

remaining portion of the appropriation may be used to pay the 74627
operating expenses of state facilities maintained by the 74628
Department of Administrative Services that are not billed to 74629
building tenants. These expenses may include, but are not limited 74630
to, the costs for vacant space and space undergoing renovation, 74631
and the rent expenses of tenants that are relocated due to 74632
building renovations. These payments shall be processed by the 74633
Department of Administrative Services through intrastate transfer 74634
vouchers and placed in the Building Management Fund (Fund 132). 74635

Section 203.12.12. CENTRAL SERVICE AGENCY FUND 74636

The Director of Budget and Management may transfer up to 74637
\$363,851 in fiscal year 2006 from the Occupational Licensing and 74638
Regulatory Fund (Fund 4K9) to the Central Service Agency Fund 74639
(Fund 115). The Director of Budget and Management may transfer up 74640
to \$45,184 in fiscal year 2006 from the State Medical Board 74641
Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 74642
115). The Director of Budget and Management may transfer up to 74643
\$625 in fiscal year 2006 from the Motor Vehicle Collision Repair 74644
Registration Fund (Fund 5H9) to the Central Service Agency Fund 74645
(Fund 115). The appropriation item 100-632, Central Service 74646
Agency, shall be used to purchase the necessary equipment, 74647
products, and services to maintain an automated application for 74648
the professional licensing boards, and to support their licensing 74649
functions in fiscal year 2006. The amount of the cash transfers is 74650
appropriated to appropriation item 100-632, Central Service 74651
Agency. 74652

Section 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES 74653

74654
With approval of the Director of Budget and Management, the 74655
Department of Administrative Services may seek reimbursement from 74656

state agencies for the actual costs and expenses the department 74657
incurs in the collective bargaining arbitration process. The 74658
reimbursements shall be processed through intrastate transfer 74659
vouchers and placed in the Collective Bargaining Fund (Fund 128). 74660

Section 203.12.18. OFFICE OF INFORMATION TECHNOLOGY 74661

The foregoing appropriation item 100-607, IT Service 74662
Delivery, shall be used by the Office of Information Technology to 74663
carry out its responsibilities under section 125.29 of the Revised 74664
Code. The foregoing appropriation item 100-630, IT Governance, 74665
shall be used by the Office of Information Technology to carry out 74666
its responsibilities under section 125.29 of the Revised Code. 74667

As soon as possible on or after July 1, 2005, the Director of 74668
Administrative Services shall certify to the Director of Budget 74669
and Management the amount of cash up to \$5,000,000 to be 74670
transferred from the IT Service Delivery Fund (Fund 133) to the IT 74671
Governance Fund (Fund 229). This amount represents a portion of 74672
the cash balance in the IT Service Delivery Fund attributable to 74673
IT Governance programs. The Director of Budget and Management 74674
shall transfer the certified amount. 74675

After final payments are made from fiscal year 2005 74676
encumbrances in the IT Service Delivery Fund (Fund 133), the 74677
Department of Administrative Services shall reconcile fiscal year 74678
2005 financial activity in the IT Service Delivery Fund and 74679
determine the amount of the fund cash balance due to the IT 74680
Governance Fund (Fund 229). The reconciliation shall be done in 74681
accordance with federal cost accounting regulations. Not later 74682
than June 30, 2006, the Director of Administrative Services shall 74683
make a determination of any additional transfers of cash necessary 74684
for reconciliation purposes. Upon concurrence with this 74685
determination, the Director of Budget and Management may transfer 74686
such cash between the IT Service Delivery Fund and the IT 74687

Governance Fund. 74688

Section 203.12.21. EQUAL OPPORTUNITY PROGRAM 74689

The Department of Administrative Services, with the approval 74690
of the Director of Budget and Management, shall establish charges 74691
for recovering the costs of administering the activities supported 74692
by the State EEO Fund (Fund 188). These charges shall be deposited 74693
to the credit of the State EEO Fund (Fund 188) upon payment made 74694
by state agencies, state-supported or state-assisted institutions 74695
of higher education, and tax-supported agencies, municipal 74696
corporations, and other political subdivisions of the state, for 74697
services rendered. 74698

Section 203.12.24. MERCHANDISE FOR RESALE 74699

The foregoing appropriation item 100-653, General Services 74700
Resale Merchandise, shall be used to account for merchandise for 74701
resale, which is administered by the General Services Division. 74702
Deposits to the fund may comprise the cost of merchandise for 74703
resale and shipping fees. 74704

Section 203.12.27. DAS INFORMATION SERVICES 74705

There is hereby established in the State Treasury the DAS 74706
Information Services Fund. The foregoing appropriation item 74707
100-603, DAS Information Services, shall be used to pay the costs 74708
of providing information systems and services in the Department of 74709
Administrative Services. 74710

The Department of Administrative Services shall establish 74711
user charges for all information systems and services that are 74712
allowable in the statewide indirect cost allocation plan submitted 74713
annually to the United States Department of Health and Human 74714
Services. These charges shall comply with federal regulations and 74715
shall be deposited to the credit of the DAS Information Services 74716

Fund (Fund 4P3). 74717

Section 203.12.30. INVESTMENT RECOVERY FUND 74718

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 427) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code. 74719
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Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program. 74724
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Of the foregoing appropriation item 100-602, Investment Recovery, up to \$2,147,024 in fiscal year 2006 and up to \$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. 74728
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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 74738
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Management to increase the amounts. Such amounts are hereby 74747
appropriated. 74748

Notwithstanding division (B) of section 125.14 of the Revised 74749
Code, the Director of Budget and Management, at the request of the 74750
Director of Administrative Services, shall transfer up to \$500,000 74751
of the amounts held for transfer to the General Revenue Fund from 74752
the Investment Recovery Fund to the State Architect's Fund (Fund 74753
131) to provide operating cash. 74754

Section 203.12.33. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 74755

Effective with the implementation of the Multi-Agency Radio 74756
Communications System, the Director of Administrative Services 74757
shall collect user fees from participants in the system. The 74758
Director of Administrative Services, with the advice of the 74759
Multi-Agency Radio Communications System Steering Committee and 74760
the Director of Budget and Management, shall determine the amount 74761
of the fees and the manner by which the fees shall be collected. 74762
Such user charges shall comply with the applicable cost principles 74763
issued by the federal Office of Management and Budget. All moneys 74764
from user charges and fees shall be deposited in the state 74765
treasury to the credit of the Multi-Agency Radio Communications 74766
System Administration Fund (Fund 5C2), which is hereby established 74767
in the state treasury. All interest income derived from the 74768
investment of the fund shall accrue to the fund. 74769

Section 203.12.36. WORKFORCE DEVELOPMENT FUND 74770

There is hereby established in the state treasury the 74771
Workforce Development Fund (Fund 5D7). The foregoing appropriation 74772
item 100-621, Workforce Development, shall be used to make 74773
payments from the fund. The fund shall be under the supervision of 74774
the Department of Administrative Services, which may adopt rules 74775
with regard to administration of the fund. The fund shall be used 74776

to pay the costs of the Workforce Development Program, established 74777
by Article 37 of the contract between the State of Ohio and 74778
OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified 74779
by any successor labor contract between the State of Ohio and 74780
OCSEA/AFSCME. The program shall be administered in accordance with 74781
the contract. Revenues shall accrue to the fund as specified in 74782
the contract. The fund may be used to pay direct and indirect 74783
costs of the program that are attributable to staff, consultants, 74784
and service providers. All income derived from the investment of 74785
the fund shall accrue to the fund. 74786

If it is determined by the Director of Administrative 74787
Services that additional appropriation amounts are necessary, the 74788
Director of Administrative Services may request that the Director 74789
of Budget and Management increase such amounts. Such amounts are 74790
hereby appropriated. 74791

Section 203.12.39. PROFESSIONAL DEVELOPMENT FUND 74792

The foregoing appropriation item 100-610, Professional 74793
Development, shall be used to make payments from the Professional 74794
Development Fund (Fund 5L7) under section 124.182 of the Revised 74795
Code. 74796

Section 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT 74797

There is hereby established in the state treasury the 74798
Employee Educational Development Fund (Fund 5V6). The foregoing 74799
appropriation item 100-619, Employee Educational Development, 74800
shall be used to make payments from the fund. The fund shall be 74801
used to pay the costs of the administration of educational 74802
programs per existing collective bargaining agreements with 74803
District 1199, the Health Care and Social Service Union; State 74804
Council of Professional Educators; Ohio Education Association and 74805
National Education Association; the Fraternal Order of Police Ohio 74806

Labor Council, Unit 2; and the Ohio State Troopers Association, 74807
Units 1 and 15. The fund shall be under the supervision of the 74808
Department of Administrative Services, which may adopt rules with 74809
regard to administration of the fund. The fund shall be 74810
administered in accordance with the applicable sections of the 74811
collective bargaining agreements between the State and the 74812
aforementioned unions. The Department of Administrative Services, 74813
with the approval of the Director of Budget and Management, shall 74814
establish charges for recovering the costs of administering the 74815
educational programs. Receipts for these charges shall be 74816
deposited into the Employee Educational Development Fund. All 74817
income derived from the investment of the funds shall accrue to 74818
the fund. 74819

If it is determined by the Director of Administrative 74820
Services that additional appropriation amounts are necessary, the 74821
Director of Administrative Services may request that the Director 74822
of Budget and Management increase such amounts. Such amounts are 74823
hereby appropriated with the approval of the Director of Budget 74824
and Management. 74825

Section 203.12.45. MAJOR IT PURCHASES 74826

The Director of Administrative Services shall compute the 74827
amount of revenue attributable to the amortization of all 74828
equipment purchases and capitalized systems from appropriation 74829
item 100-607, IT Service Delivery; appropriation item 100-617, 74830
Major IT Purchases; and appropriation item CAP-837, Major IT 74831
Purchases, which is recovered by the Department of Administrative 74832
Services as part of the rates charged by the IT Service Delivery 74833
Fund (Fund 133) created in section 125.15 of the Revised Code. The 74834
Director of Budget and Management may transfer cash in an amount 74835
not to exceed the amount of amortization computed from the IT 74836
Service Delivery Fund (Fund 133) to the Major IT Purchases Fund 74837

(Fund 4N6). 74838

Section 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT 74839

The Director of Administrative Services, with the approval of 74840
the Director of Budget and Management, may establish an 74841
information technology assessment for the purpose of recovering 74842
the cost of selected infrastructure and statewide programs. Such 74843
assessment shall comply with applicable cost principles issued by 74844
the federal Office of Management and Budget. The information 74845
technology assessment shall be charged to all organized bodies, 74846
offices, or agencies established by the laws of the state for the 74847
exercise of any function of state government except for the 74848
General Assembly, any legislative agency, the Supreme Court, the 74849
other courts of record in Ohio, or any judicial agency, the 74850
Adjutant General, the Bureau of Workers' Compensation, and 74851
institutions administered by a board of trustees. Any state-entity 74852
exempted by this section may utilize the infrastructure or 74853
statewide program by participating in the information technology 74854
assessment. All charges for the information technology assessment 74855
shall be deposited to the credit of the IT Service Delivery Fund 74856
(Fund 133) created in section 125.15 of the Revised Code. 74857

Section 203.12.51. UNEMPLOYMENT COMPENSATION FUND 74858

Within thirty days after the effective date of this section, 74859
or as soon as possible thereafter, the Director of Administrative 74860
Services shall certify the remaining cash in the Unemployment 74861
Compensation Fund (Fund 113) to the Director of Budget and 74862
Management who shall transfer that amount to the General Revenue 74863
Fund and abolish the Unemployment Compensation Fund (Fund 113). 74864

Section 203.12.54. PAYROLL WITHHOLDING FUND 74865

The foregoing appropriation item 100-629, Payroll Deductions, 74866

shall be used to make payments from the Payroll Withholding Fund 74867
(Fund 124). If it is determined by the Director of Budget and 74868
Management that additional appropriation amounts are necessary, 74869
such amounts are hereby appropriated. 74870

Section 203.12.57. GENERAL SERVICES REFUNDS 74871

The foregoing appropriation item 100-646, General Services 74872
Refunds, shall be used to hold bid guarantee and building plans 74873
and specifications deposits until they are refunded. The Director 74874
of Administrative Services may request that the Director of Budget 74875
and Management transfer cash received for the costs of providing 74876
the building plans and specifications to contractors from the 74877
General Services Refunds Fund to the State Architect's Office Fund 74878
(Fund 131). Prior to the transfer of cash, the Director of 74879
Administrative Services shall certify that such amounts are in 74880
excess of amounts required for refunding deposits and are directly 74881
related to costs of producing building plans and specifications. 74882
If it is determined that additional appropriations are necessary, 74883
such amounts are hereby appropriated. 74884

Section 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 74885
DEBT SERVICE PAYMENTS 74886

The Director of Administrative Services, in consultation with 74887
the Multi-Agency Radio Communication System (MARCS) Steering 74888
Committee and the Director of Budget and Management, shall 74889
determine the share of debt service payments attributable to 74890
spending for MARCS components that are not specific to any one 74891
agency and that shall be charged to agencies supported by the 74892
motor fuel tax. Such share of debt service payments shall be 74893
calculated for MARCS capital disbursements made beginning July 1, 74894
1997. Within thirty days of any payment made from appropriation 74895
item 100-447, OBA - Building Rent Payments, the Director of 74896

Administrative Services shall certify to the Director of Budget
and Management the amount of this share. The Director of Budget
and Management shall transfer such amounts to the General Revenue
Fund from the State Highway Safety Fund (Fund 036) established in
section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider
renting or leasing existing tower sites at reasonable or current
market rates, so long as these existing sites are equipped with
the technical capabilities to support the MARCS project.

Section 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a
"public exigency," as provided in division (C) of section 123.15
of the Revised Code, the Director shall also notify the members of
the Controlling Board.

Section 203.12.66. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval
of the Director of Budget and Management, shall establish charges
for recovering the costs of administering the programs in the
General Services Fund (Fund 117) and the State Printing Fund (Fund
210).

Section 203.12.69. MEDICAID INFORMATION TECHNOLOGY SYSTEM

(A) The Department of Administrative Services shall conduct a
study to do both of the following:

(1) Comprehensively analyze the technology needs of all
governmental agencies that administer components of the Medicaid
program.

(2) Determine how to ensure that the technology needs of
those governmental agencies can be integrated into a Medicaid

information technology system.				74925
(B) The Department of Administrative Services shall seek the				74926
most federal participation available for the conduct of the study,				74927
and the Department of Job and Family Services shall seek the most				74928
federal participation available for the development and				74929
implementation of a Medicaid information technology system.				74930
Section 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES				74931
General Revenue Fund				74932
GRF 036-100 Personal Services	\$	220,091	\$ 220,091	74933
GRF 036-200 Maintenance	\$	39,909	\$ 39,909	74934
GRF 036-300 Equipment	\$	1,000	\$ 1,000	74935
GRF 036-501 CAAM Awards and	\$	1,000	\$ 1,000	74936
Scholarships				
GRF 036-502 Community Projects	\$	20,000	\$ 20,000	74937
TOTAL GRF General Revenue Fund	\$	282,000	\$ 282,000	74938
State Special Revenue Fund Group				74939
4H3 036-601 Commission on African	\$	10,000	\$ 10,000	74940
American Males -				
Gifts/Grants				
TOTAL SSR State Special Revenue	\$	10,000	\$ 10,000	74941
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	292,000	\$ 292,000	74942
COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW				74943
Annually, not later than the thirty-first day of December,				74944
the Commission on African American Males shall internally prepare				74945
and submit to the chairperson and ranking minority member of the				74946
Human Services Subcommittee of the Finance and Appropriations				74947
Committee of the House of Representatives a report that				74948
demonstrates the progress that has been made toward meeting the				74949
Commission's mission statement.				74950

Section 203.18. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW			74951
General Revenue Fund			74952
GRF 029-321 Operating Expenses	\$	379,769 \$	387,364 74953
TOTAL GRF General Revenue Fund	\$	379,769 \$	387,364 74954
TOTAL ALL BUDGET FUND GROUPS	\$	379,769 \$	387,364 74955
OPERATING			74956
The Chief Administrative Officer of the House of			74957
Representatives and the Clerk of the Senate shall determine, by			74958
mutual agreement, which of them shall act as fiscal agent for the			74959
Joint Committee on Agency Rule Review.			74960
OPERATING EXPENSES			74961
The unencumbered balance of appropriation item 029-321,			74962
Operating Expenses, at the end of fiscal year 2006 shall be			74963
transferred to fiscal year 2007 for use under the same			74964
appropriation item.			74965
Section 203.21. AGE DEPARTMENT OF AGING			74966
General Revenue Fund			74967
GRF 490-321 Operating Expenses	\$	2,579,867 \$	2,308,867 74968
GRF 490-403 PASSPORT	\$	112,045,715 \$	121,009,372 74969
GRF 490-405 Golden Buckeye Card	\$	467,614 \$	467,614 74970
GRF 490-406 Senior Olympics	\$	15,638 \$	15,638 74971
GRF 490-409 Ohio Community Service	\$	203,647 \$	193,465 74972
Council Operations			
GRF 490-410 Long-Term Care	\$	689,437 \$	689,437 74973
Ombudsman			
GRF 490-411 Senior Community	\$	10,630,988 \$	10,630,988 74974
Services			
GRF 490-412 Residential State	\$	9,156,771 \$	9,156,771 74975
Supplement			

GRF 490-414	Alzheimers Respite	\$	4,085,888	\$	4,085,888	74976
GRF 490-416	JCFS Elderly	\$	100,000	\$	100,000	74977
	Transportation					
GRF 490-421	PACE	\$	11,354,145	\$	10,214,809	74978
GRF 490-422	Assisted Living Waiver	\$	0	\$	359,919	74979
GRF 490-506	National Senior	\$	352,943	\$	352,943	74980
	Service Corps					
TOTAL GRF	General Revenue Fund	\$	151,682,653	\$	159,585,711	74981
	General Services Fund Group					74982
480 490-606	Senior Community	\$	372,677	\$	372,677	74983
	Outreach and Education					
TOTAL GSF	General Services Fund					74984
Group		\$	372,677	\$	372,677	74985
	Federal Special Revenue Fund Group					74986
3C4 490-607	PASSPORT	\$	198,683,143	\$	218,196,387	74987
3C4 490-621	PACE-Federal	\$	10,854,083	\$	14,586,135	74988
3C4 490-622	Assisted	\$	0	\$	5,687,374	74989
	Living-Federal					
3M3 490-611	Federal Aging	\$	27,622,693	\$	28,037,034	74990
	Nutrition					
3M4 490-612	Federal Independence	\$	27,907,287	\$	28,325,896	74991
	Services					
3R7 490-617	Ohio Community Service	\$	9,170,000	\$	9,170,000	74992
	Council Programs					
322 490-618	Federal Aging Grants	\$	14,834,354	\$	15,014,494	74993
TOTAL FED	Federal Special Revenue					74994
Fund Group		\$	289,071,560	\$	319,017,320	74995
	State Special Revenue Fund Group					74996
4C4 490-609	Regional Long-Term	\$	910,000	\$	935,000	74997
	Care Ombudsman Program					
4J4 490-610	PASSPORT/Residential	\$	33,263,984	\$	33,263,984	74998
	State Supplement					

4U9	490-602	PASSPORT Fund	\$	4,424,969	\$	4,424,969	74999
5BA	490-620	Ombudsman Support	\$	615,000	\$	0	75000
5CE	490-624	Special Projects	\$	350,000	\$	0	75001
5K9	490-613	Long Term Care	\$	298,400	\$	820,400	75002
		Consumers Guide					
5W1	490-616	Resident Services	\$	262,500	\$	262,500	75003
		Coordinator Program					
624	490-604	OCSC Community Support	\$	2,500	\$	2,500	75004
TOTAL	SSR	State Special Revenue					75005
Fund Group			\$	40,127,353	\$	39,709,353	75006
TOTAL ALL BUDGET FUND GROUPS			\$	481,254,243	\$	518,685,061	75007

Section 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY 75009
ADMISSION 75010

Pursuant to an interagency agreement, the Department of Job 75011
and Family Services shall designate the Department of Aging to 75012
perform assessments under sections 173.42 and 5111.204 of the 75013
Revised Code. Of the foregoing appropriation item 490-403, 75014
PASSPORT, the Department of Aging may use not more than \$2,586,648 75015
in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform 75016
the assessments for persons not eligible for Medicaid under the 75017
department's interagency agreement with the Department of Job and 75018
Family Services and to assist individuals in planning for their 75019
long-term health care needs. 75020

Section 203.21.06. PASSPORT 75021

Of the foregoing appropriation item 490-607, PASSPORT, Fund 75022
3C4, up to \$125,000 per fiscal year shall be used for an 75023
evaluation of the PASSPORT Program. 75024

(A) There is hereby created the PASSPORT Evaluation Panel to 75025
oversee the performance of an evaluation of the PASSPORT Home and 75026
Community Based Waiver Program conducted by an independent 75027

contractor. The Panel shall be composed of the following members:	75028
(1) The Director of Aging or the Director's designee;	75029
(2) The Director of Job and Family Services or the Director's designee;	75030 75031
(3) A representative of the Central Ohio Area Agency on Aging, appointed by the Agency;	75032 75033
(4) A representative of the Ohio Association of Area Agencies on Aging, appointed by the Agency;	75034 75035
(5) A representative of PASSPORT providers, appointed by the Director of Aging;	75036 75037
(6) A representative of the Ohio Academy of Nursing Homes, appointed by the Academy;	75038 75039
(7) A representative of the Ohio Health Care Association, appointed by the Association;	75040 75041
(8) A representative of the Association for Ohio Philanthropic Homes and Housing for the Aging, appointed by the Association;	75042 75043 75044
(9) A representative of the Ohio Council for Home Care, appointed by the Council;	75045 75046
(10) A representative of the Ohio Association of Adult Day Services, appointed by the Association;	75047 75048
(11) The State Long-Term Care Ombudsperson or the Ombudsperson's designee;	75049 75050
(12) A representative of the Ohio Association of Regional Long-Term Care Ombudsman, appointed by the Association;	75051 75052
(13) A representative of the American Association of Retired Persons, appointed by the Association;	75053 75054
(14) The Chair of the Long-Term Care Committee of the Ohio	75055

Commission to Reform Medicaid; 75056

(15) Three individuals to represent PASSPORT program 75057
participants, appointed by the Director of Aging. 75058

Panel members shall serve without compensation. The 75059
Department of Aging shall provide assistance to the PASSPORT 75060
Evaluation Panel, including support services and meeting space. 75061
The Panel shall convene not later than sixty days after the 75062
effective date of this section. 75063

(B) The Panel shall do all of the following: 75064

(1) Establish criteria to be used in selecting an independent 75065
contractor to evaluate the PASSPORT Program. The criteria shall 75066
specify that the independent contractor must not be affiliated 75067
with any state agency. 75068

(2) In accordance with the request for proposal process 75069
administered by the Department of Administrative Services, accept 75070
and evaluate bids from potential contractors; 75071

(3) Select to evaluate the PASSPORT Program an independent 75072
contractor that meets the criteria established by the Panel and 75073
the Department. 75074

(C) The independent contractor selected by the PASSPORT 75075
Evaluation Panel shall, in conducting the evaluation of the 75076
PASSPORT Program, do all of the following: 75077

(1) Examine the implementation by the existing PASSPORT 75078
system of the long-term care recommendations of the Ohio 75079
Commission to Reform Medicaid and coordinate the work of the 75080
PASSPORT evaluation with the Medicaid Transition Council and the 75081
Medicaid Care Management Work Group; 75082

(2) Evaluate the cost-effectiveness of services provided 75083
under the program; 75084

(3) Evaluate the population served and the appropriateness of 75085

the program for that population;	75086
(4) Evaluate program outcomes to determine the program's effectiveness in preventing nursing home admissions;	75087 75088
(5) Evaluate the effectiveness of area agencies on aging in efficiently linking older Ohioans to the appropriate level of assistance based on the screening and assessment activities of the PASSPORT system;	75089 75090 75091 75092
(6) Examine the cost effectiveness of increasing the care management responsibilities of area agencies on aging to include the management of the Medicaid state plan services;	75093 75094 75095
(7) Evaluate the effectiveness of client-to-case management ratios of area agencies on aging to assess whether clients receive quality outcomes in a cost-effective manner;	75096 75097 75098
(8) Evaluate and assess the effectiveness of the PASSPORT program's authority to provide interventions that increase enrollment and decrease disenrollment and increase flexibility to provide quality, timely service to clients with special service needs;	75099 75100 75101 75102 75103
(9) Evaluate the PASSPORT program's rate structure and contracting process to determine fair market rates and quality incentive indicators;	75104 75105 75106
(10) Evaluate the effectiveness of the PASSPORT program's current provider procurement process;	75107 75108
(11) Determine elements of the program that may be vulnerable to fraud;	75109 75110
(12) Any additional action requested by the PASSPORT Evaluation Panel.	75111 75112
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	75113 75114 75115

Evaluation Panel shall approve a final report. 75116

Appropriation item 490-403, PASSPORT, and the amounts set 75117
aside for the PASSPORT Waiver Program in appropriation item 75118
490-610, PASSPORT/Residential State Supplement, may be used to 75119
assess clients regardless of Medicaid eligibility. 75120

The Director of Aging shall adopt rules under section 111.15 75121
of the Revised Code governing the nonwaiver funded PASSPORT 75122
program, including client eligibility. 75123

The Department of Aging shall administer the Medicaid 75124
waiver-funded PASSPORT Home Care Program as delegated by the 75125
Department of Job and Family Services in an interagency agreement. 75126
The foregoing appropriation item 490-403, PASSPORT, and the 75127
amounts set aside for the PASSPORT Waiver Program in appropriation 75128
item 490-610, PASSPORT/Residential State Supplement, shall be used 75129
to provide the required state match for federal Medicaid funds 75130
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 75131
Appropriation item 490-403, PASSPORT, and the amounts set aside 75132
for the PASSPORT Waiver Program in appropriation item 490-610, 75133
PASSPORT/Residential State Supplement, may also be used to support 75134
the Department of Aging's administrative costs associated with 75135
operating the PASSPORT program. 75136

The foregoing appropriation item 490-607, PASSPORT, shall be 75137
used to provide the federal matching share for all PASSPORT 75138
program costs determined by the Department of Job and Family 75139
Services to be eligible for Medicaid reimbursement. 75140

OHIO COMMUNITY SERVICE COUNCIL 75141

The foregoing appropriation items 490-409, Ohio Community 75142
Service Council Operations, and 490-617, Ohio Community Service 75143
Council Programs, shall be used in accordance with section 121.40 75144
of the Revised Code. 75145

TRANSFER OF RESIDENT PROTECTION FUNDS 75146

The Director of Budget and Management shall transfer, by 75147
intrastate transfer voucher, in fiscal year 2006, \$615,000 from 75148
Fund 4E3, Resident Protection Fund, in the Department of Job and 75149
Family Services, to Fund 5BA in the Department of Aging, to be 75150
used for program management for the Office of the State Long-Term 75151
Care Ombudsman created by the Department of Aging under division 75152
(M) of section 173.01 of the Revised Code. 75153

The Director of Budget and Management shall transfer, by 75154
intrastate transfer voucher, in fiscal year 2006, \$350,000 from 75155
Fund 4E3, Resident Protection Fund, in the Department of Job and 75156
Family Services to Fund 5CE in the Department of Aging to be used 75157
by the Alzheimer's Association to develop a pilot training program 75158
on person-centered dementia care for long term care staff who 75159
interact with people with dementia. 75160

SENIOR COMMUNITY SERVICES 75161

Appropriation item 490-411, Senior Community Services, shall 75162
be used for services designated by the Department of Aging, 75163
including, but not limited to, home-delivered and congregate 75164
meals, transportation services, personal care services, respite 75165
services, adult day services, home repair, care coordination, and 75166
decision support systems. Service priority shall be given to low 75167
income, frail, and cognitively impaired persons 60 years of age 75168
and over. The department shall promote cost sharing by service 75169
recipients for those services funded with block grant funds, 75170
including, when possible, sliding-fee scale payment systems based 75171
on the income of service recipients. 75172

ALZHEIMERS RESPITE 75173

The foregoing appropriation item 490-414, Alzheimers Respite, 75174
shall be used to fund only Alzheimer's disease services under 75175
section 173.04 of the Revised Code. 75176

JCFS ELDERLY TRANSPORTATION	75177
The foregoing appropriation item 490-416, JCFS Elderly Transportation, shall be used for noncapital expenses related to transportation services for the elderly that provide access to such things as healthcare services, congregate meals, socialization programs, and grocery shopping. The funds shall pass through and shall be administered by the Area Agencies on Aging.	75178 75179 75180 75181 75182 75183
Agencies receiving funding from appropriation item 490-416, JCFS Elderly Transportation, shall coordinate services with other local service agencies. The appropriation shall be allocated to the following agencies:	75184 75185 75186 75187
(A) \$30,000 in both fiscal years to Cincinnati Jewish Vocational Services;	75188 75189
(B) \$20,000 in both fiscal years to Wexner Heritage Village;	75190
(C) \$20,000 in both fiscal years to Yassenoff Jewish Community Center;	75191 75192
(D) \$30,000 in both fiscal years to Cleveland Jewish Community Center.	75193 75194
RESIDENTIAL STATE SUPPLEMENT	75195
Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows:	75196 75197 75198 75199
(A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code;	75200 75201
(B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code;	75202 75203
(C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code;	75204 75205

(D) \$800 for an adult family home, as defined in Chapter 3722. of the Revised Code;	75206 75207
(E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code;	75208 75209
(F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;	75210 75211
(G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.	75212 75213 75214
The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.	75215 75216 75217
LONG-TERM CARE OMBUDSMAN	75218
The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.	75219 75220 75221 75222
TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	75223
The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.	75224 75225 75226 75227 75228 75229 75230
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS	75231 75232
Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition,	75233 75234 75235

490-612, Federal Independence Services, and 490-618, Federal Aging
Grants, in amounts not to exceed 30 per cent of the appropriation
from which the transfer is made. The Department of Aging shall
report a transfer to the Controlling Board at the next regularly
scheduled meeting of the board.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

The foregoing appropriation item 490-609, Regional Long-Term
Care Ombudsman Program, shall be used solely to pay the costs of
operating the regional long-term care ombudsman programs.

PASSPORT/RESIDENTIAL STATE SUPPLEMENT

Of the foregoing appropriation item 490-610,
PASSPORT/Residential State Supplement, up to \$2,835,000 each
fiscal year may be used to fund the Residential State Supplement
Program. The remaining available funds shall be used to fund the
PASSPORT program.

TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT

Subject to approval by the Social Security Administration, of
the foregoing appropriation items 490-412, Residential State
Supplement, and 490-610, PASSPORT/Residential State Supplement,
Fund 4J4, in fiscal year 2007 the Department of Aging shall
transfer to the Ohio Department of Mental Health sufficient funds
to make benefit payments for all Residential State Supplement
recipients who are less than 60 years of age diagnosed with mental
illness, mental retardation, or a developmental disability and are
enrolled in the program on June 30, 2006. Upon the request of the
Directors of Aging and of Mental Health, the Director of Budget
and Management may transfer appropriations from GRF appropriation
item 490-412, Residential State Supplement, in the Department of
Aging to GRF appropriation item 335-505, Local Mental Health
Systems of Care, in the Department of Mental Health. In addition,
upon the request of the Directors of Aging and Mental Health, the

Director of Budget and Management may transfer cash from Fund 4J4, 75267
PASSPORT Fund, into the General Revenue Fund and increase the 75268
appropriation in Department of Mental Health GRF appropriation 75269
item 335-505, Local Mental Health Systems of Care, by an equal 75270
amount. 75271

The departments of Aging and Mental Health shall jointly 75272
petition the Social Security Administration to approve changes to 75273
the Residential State Supplement program. Changes proposed by the 75274
two departments shall ensure that Residential State Supplement 75275
program recipients on June 30, 2006, continue to receive benefit 75276
payments as long as they remain in the program. Changes proposed 75277
by the departments of Aging and Mental Health may include 75278
provisions that improve local accountability to county boards of 75279
mental health, maximize available funding, and improve the quality 75280
of residential settings approved for recipients. If the Social 75281
Security Administration does not approve these changes, the 75282
Department of Aging shall continue to be responsible for the 75283
Residential State Supplement Program. 75284

Section 203.21.09. AGING AND DISABILITY RESOURCE CENTERS 75285

The Department of Aging shall apply for the 2005 Aging and 75286
Disability Resource Center Grant Initiative of the Administration 75287
on Aging and the Centers for Medicare and Medicaid Services. If 75288
the application is accepted, the Department shall create an Aging 75289
and Disability Resource Center beginning in fiscal year 2006. The 75290
Department of Job and Family Services shall endorse the 75291
Department's application to the extent required by the invitation 75292
to apply. 75293

Section 203.24. AGR DEPARTMENT OF AGRICULTURE 75294

General Revenue Fund 75295
GRF 700-321 Operating Expenses \$ 2,605,330 \$ 2,605,330 75296

GRF 700-401	Animal Disease Control	\$	3,574,506	\$	3,574,506	75297
GRF 700-403	Dairy Division	\$	1,304,504	\$	1,304,504	75298
GRF 700-404	Ohio Proud	\$	185,395	\$	185,395	75299
GRF 700-405	Animal Damage Control	\$	60,000	\$	60,000	75300
GRF 700-406	Consumer Analytical Lab	\$	819,907	\$	819,907	75301
GRF 700-407	Food Safety	\$	939,099	\$	939,099	75302
GRF 700-409	Farmland Preservation	\$	241,573	\$	241,573	75303
GRF 700-410	Plant Industry	\$	391,216	\$	50,000	75304
GRF 700-411	International Trade and Market Development	\$	617,524	\$	617,524	75305
GRF 700-413	Gypsy Moth Prevention	\$	200,000	\$	200,000	75306
GRF 700-415	Poultry Inspection	\$	325,000	\$	325,000	75307
GRF 700-418	Livestock Regulation Program	\$	1,428,496	\$	1,428,496	75308
GRF 700-424	Livestock Testing and Inspections	\$	115,946	\$	115,946	75309
GRF 700-499	Meat Inspection Program - State Share	\$	4,696,889	\$	4,696,889	75310
GRF 700-501	County Agricultural Societies	\$	358,226	\$	358,226	75311
TOTAL GRF	General Revenue Fund	\$	17,863,611	\$	17,522,395	75312
	Federal Special Revenue Fund Group					75313
3J4 700-607	Indirect Cost	\$	1,500,027	\$	1,500,027	75314
3R2 700-614	Federal Plant Industry	\$	4,800,000	\$	4,800,000	75315
326 700-618	Meat Inspection Program - Federal Share	\$	5,201,291	\$	5,201,291	75316
336 700-617	Ohio Farm Loan Revolving Fund	\$	43,793	\$	44,679	75317
382 700-601	Cooperative Contracts	\$	4,300,000	\$	4,300,000	75318
TOTAL FED	Federal Special Revenue Fund Group	\$	15,845,111	\$	15,845,997	75320

State Special Revenue Fund Group					75321	
4C9 700-605	Feed, Fertilizer, Seed, and Lime Inspection	\$	1,922,857	\$	1,891,395	75322
4D2 700-609	Auction Education	\$	23,885	\$	24,601	75323
4E4 700-606	Utility Radiological Safety	\$	73,059	\$	73,059	75324
4P7 700-610	Food Safety Inspection	\$	816,096	\$	858,096	75325
4R0 700-636	Ohio Proud Marketing	\$	38,300	\$	38,300	75326
4R2 700-637	Dairy Industry Inspection	\$	1,541,466	\$	1,621,460	75327
4T6 700-611	Poultry and Meat Inspection	\$	47,294	\$	47,294	75328
4T7 700-613	International Trade and Market Development	\$	52,000	\$	54,000	75329
494 700-612	Agricultural Commodity Marketing Program	\$	170,220	\$	170,220	75330
496 700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,054	75331
497 700-627	Commodity Handlers Regulatory Program	\$	515,820	\$	529,978	75332
5BF 700-643	Weights and Measures	\$	1,160,600	\$	1,160,600	75333
5B8 700-629	Auctioneers	\$	365,390	\$	365,390	75334
5H2 700-608	Metrology Lab and Scale Certification	\$	351,526	\$	362,526	75335
5L8 700-604	Livestock Management Program	\$	30,000	\$	30,000	75336
578 700-620	Ride Inspection Fees	\$	1,105,436	\$	1,115,436	75337
652 700-634	Animal Health and Food Safety	\$	1,876,624	\$	1,831,232	75338
669 700-635	Pesticide Program	\$	2,993,232	\$	3,354,448	75339
TOTAL SSR State Special Revenue Fund Group		\$	14,154,904	\$	14,599,089	75340 75341

Clean Ohio Fund Group				75342
057 700-632 Clean Ohio	\$	149,000	\$ 149,000	75343
Agricultural Easement				
TOTAL CLR Clean Ohio Fund Group	\$	149,000	\$ 149,000	75344
TOTAL ALL BUDGET FUND GROUPS	\$	48,012,626	\$ 48,116,481	75345
OHIO - ISRAEL AGRICULTURAL INITIATIVE				
75346				
Of the foregoing General Revenue Fund appropriation item				75347
700-411, International Trade and Market Development, \$100,000				75348
shall be used in fiscal year 2006 for the Ohio - Israel				75349
Agricultural Initiative.				75350
FAMILY FARM LOAN PROGRAM				
75351				
Notwithstanding Chapter 166. of the Revised Code, up to				75352
\$1,000,000 in each fiscal year shall be transferred from moneys in				75353
the Facilities Establishment Fund (Fund 037) to the Family Farm				75354
Loan Fund (Fund 5H1) in the Department of Development. These				75355
moneys shall be used for loan guarantees. The transfer is subject				75356
to Controlling Board approval.				75357
Financial assistance from the Family Farm Loan Fund (Fund				75358
5H1) shall be repaid to Fund 5H1. This fund is established in				75359
accordance with sections 166.031, 901.80, 901.81, 901.82, and				75360
901.83 of the Revised Code.				75361
When the Family Farm Loan Fund (Fund 5H1) ceases to exist,				75362
all outstanding balances, all loan repayments, and any other				75363
outstanding obligations shall revert to the Facilities				75364
Establishment Fund (Fund 037).				75365
Section 203.24.03. FERTILIZER-RELATED LICENSURE AND				
REGISTRATION				
75366				
75367				
To facilitate implementation of the new schedule for				75368
fertilizer-related licensure, registration, and reporting				75369
established under sections 905.32, 905.33, 905.331, and 905.36 of				75370

the Revised Code, as amended by this act, all of the following
apply:

(A) With regard to licenses for which applications for the
license period beginning July 1, 2005, have been submitted under
sections 905.32 and 905.331 of the Revised Code as those sections
existed prior to their amendment by this act, a license shall be
issued for a period beginning on July 1, 2005, and ending on
November 30, 2005, and shall expire on November 30, 2005.

(B) With regard to registrations of a specialty fertilizer
for which applications for the registration period beginning July
1, 2005, have been submitted under section 905.33 of the Revised
Code as that section existed prior to its amendment by this act, a
registration shall be issued for the period beginning on July 1,
2005, and ending on November 30, 2005, and shall expire on
November 30, 2005.

(C) A person who is required to submit a tonnage report
within thirty days of June 30, 2005, under section 905.36 of the
Revised Code as that section existed prior to its amendments by
this act shall submit the report by that date. However, the person
also shall submit a tonnage report by November 30, 2005, for the
period beginning on July 1, 2005, and ending on October 31, 2005
as required by section 905.36 of the Revised Code as amended by
this act.

COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND
LABORATORY FUND

The Commercial Feed, Fertilizer, Seed, and Lime Inspection
and Laboratory Fund created in section 905.38 of the Revised Code,
as amended by this act, is a continuation of the Commerical Feed,
Fertilizer, and Lime Inspection and Laboratory Fund that was
created in that section prior to its amendment by this act.
Notwithstanding any other provision of law to the contrary, the

Seed Fund (5Z4) created in section 907.16 of the Revised Code 75402
shall cease to exist, effective July 1, 2005. All assets, 75403
liabilities, revenues, and obligations associated with the Seed 75404
Fund (5Z4) are hereby transferred to the Commerical Feed, 75405
Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 75406
4C9) on July 1, 2005. 75407

Effective July 1, 2005, or as soon thereafter as possible, 75408
the Director of Agriculture shall certify to the Director of 75409
Budget and Management the cash balance in the Seed Fund (5Z4), 75410
which was merged in section 907.16 of the Revised Code, as amended 75411
by this act. The Director of Budget and Management shall transfer 75412
the certified amount to the Commercial Feed, Fertilizer, Seed, and 75413
Lime Inspection and Laboratory Fund (Fund 4C9), which is created 75414
in section 907.16 of the Revised Code, formerly named the Seed 75415
Fund. The Director shall cancel any existing encumbrances against 75416
appropriation item 700-642, Seed Program, and re-establish them 75417
against appropriation item 700-605, Feed, Fertilizer, Seed, and 75418
Lime Inspection. The amounts of the re-established encumbrances 75419
are hereby appropriated. 75420

METROLOGY LAB AND SCALE CERTIFICATION FUND 75421

The Metrology and Scale Certification Fund created in section 75422
1327.511 of the Revised Code, as amended by this act, is a 75423
continuation of the Scale Certification Fund that was created in 75424
that section prior to its amendment by this act. Notwithstanding 75425
any other provision of law to the contrary, the Scale 75426
Certification Fund (Fund 579) created in section 1327.511 of the 75427
Revised Code shall cease to exist, effective July 1, 2005. All 75428
assets, liabilities, revenues, and obligations associated with the 75429
Scale Certification Fund (Fund 579) are hereby transferred to the 75430
Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1, 75431
2005. 75432

Effective July 1, 2005, or as soon thereafter as possible, 75433
the Director of Agriculture shall certify to the Director of 75434
Budget and Management the cash balance in the Scale Certification 75435
Fund (Fund 579), which was merged in section 1327.511 of the 75436
Revised Code, as amended by this act. The Director of Budget and 75437
Management shall transfer the certified amount to the Metrology 75438
Laboratory and Scale Certification Fund (Fund 5H2) which is 75439
created in section 1327.511 of the Revised Code, formerly named 75440
the Scale Certification Laboratory Fund. The Director shall cancel 75441
any existing encumbrances against appropriation item 700-630, 75442
Scale Certification, and re-establish them against appropriation 75443
item 700-608, Metrology Lab. The amounts of the re-established 75444
encumbrances are hereby appropriated. 75445

ANIMAL HEALTH AND FOOD SAFETY 75446

Notwithstanding any other provision of law to the contrary, 75447
the Animal Industry Laboratory Fees Fund (Fund 4V5) created in 75448
division (E)(1) of section 901.43 of the Revised Code shall cease 75449
to exist, effective July 1, 2005. All assets, liabilities, 75450
revenues, and obligations associated with the Animal Industry 75451
Laboratory Fund (Fund 4V5) are hereby transferred to the Animal 75452
Health and Food Safety Fund (Fund 652) on July 1, 2005. 75453

Effective July 1, 2005, or as soon thereafter as possible, 75454
the Director of Agriculture shall certify to the Director of 75455
Budget and Management the cash balance in the Animal Industry 75456
Laboratory Fund (Fund 4V5), which was merged in division (E)(1) of 75457
section 901.43 of the Revised Code, as amended by this act. The 75458
Director of Budget and Management shall transfer the certified 75459
amount to the Animal Health and Food Safety Fund (Fund 652) which 75460
is created in division (E)(2) of section 901.43 of the Revised 75461
Code, formerly named the Animal Industry Laboratory Fund. The 75462
Director of Budget and Management shall cancel any existing 75463
encumbrances against appropriation item 700-615, Animal Industry 75464

Lab Fees, and re-establish them against appropriation item 75465
 700-634, Laboratory Services. The amounts of the re-established 75466
 encumbrances are hereby appropriated. 75467

PESTICIDE REGISTRATION AND INSPECTION FEE 75468

The registration and inspection fee established in rules 75469
 adopted under section 921.16 of Revised Code for the purposes of 75470
 section 921.02 of the Revised Code, as that section existed prior 75471
 to its amendment by this act, that are in effect on January 1, 75472
 2005, shall remain in effect until the new fees established in 75473
 section 921.02 of the Revised Code as amended by this act take 75474
 effect on January 1, 2007. 75475

CLEAN OHIO AGRICULTURAL EASEMENT 75476

The foregoing appropriation item 700-632, Clean Ohio 75477
 Agricultural Easement, shall be used by the Department of 75478
 Agriculture in administering sections 901.21, 901.22, and 5301.67 75479
 to 5301.70 of the Revised Code. 75480

TRANSFER BETWEEN FUNDS 75481

For fiscal years 2006 and 2007, if the cash credited to the 75482
 Commercial Feed, Fertilizer, Seed, and Lime Inspection and 75483
 Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund 75484
 669) exceeds the amount necessary to administer the programs for 75485
 which they were intended, the Director of Agriculture may certify 75486
 the amount to the Director of Budget and Management. The Director 75487
 of Budget and Management may transfer the cash to any other fund 75488
 administered by the Director of Agriculture. 75489

Section 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY 75490

General Revenue Fund 75491

GRF 898-402 Coal Development	\$	568,814	\$	573,814	75492
Office					

GRF 898-901 Coal R&D General	\$	7,071,100	\$	8,980,800	75493
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	Obligation Debt			
	Service			
TOTAL GRF General Revenue Fund	\$	7,639,914	\$	9,554,614 75494
Agency Fund Group				75495
4Z9 898-602 Small Business	\$	263,165	\$	264,196 75496
	Ombudsman			
5A0 898-603 Small Business	\$	71,087	\$	71,087 75497
	Assistance			
570 898-601 Operating Expenses	\$	256,875	\$	263,693 75498
TOTAL AGY Agency Fund Group	\$	591,127	\$	598,976 75499
Coal Research/Development Fund				75500
046 898-604 Coal Research and	\$	10,000,000	\$	10,000,000 75501
	Development Fund			
TOTAL 046 Coal	\$	10,000,000	\$	10,000,000 75502
Research/Development Fund				
TOTAL ALL BUDGET FUND GROUPS	\$	18,231,041	\$	20,153,590 75503
COAL DEVELOPMENT OFFICE				75504
The foregoing appropriation item GRF 898-402, Coal				75505
Development Office, shall be used for the administrative costs of				75506
the Coal Development Office.				75507
COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE				75508
The foregoing appropriation item GRF 898-901, Coal R & D				75509
General Obligation Debt Service, shall be used to pay all debt				75510
service and related financing costs at the times they are required				75511
to be made under sections 151.01 and 151.07 of the Revised Code				75512
during the period from July 1, 2005, to June 30, 2007. The Office				75513
of the Sinking Fund or the Director of Budget and Management shall				75514
effectuate the required payments by intrastate transfer voucher.				75515
SCIENCE AND TECHNOLOGY COLLABORATION				75516
The Air Quality Development Authority shall work in close				75517

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.

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
and grantees and with Alignment Programs and grantees.

"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 (1) to build on existing
competitive research strengths, (2) to encourage new and emerging
discoveries and commercialization of ideas and products that will
benefit the Ohio economy, and (3) 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. 75550

As directed by the Third Frontier Commission, Alignment 75551
Program managers shall report to the Commission or to the Third 75552
Frontier Advisory Board on the contributions of their programs to 75553
achieving the objectives stated in the preceding paragraph. 75554

Each alignment program shall be reviewed annually by the 75555
Third Frontier Commission with respect to its development of 75556
complementary relationships within a combined state science and 75557
technology investment portfolio and its overall contribution to 75558
the state's science and technology strategy, including the 75559
adoption of appropriately consistent criteria for: (1) the 75560
scientific merit of activities supported by the program; (2) the 75561
relevance of the program's activities to commercial opportunities 75562
in the private sector; (3) the private sector's involvement in a 75563
process that continually evaluates commercial opportunities to use 75564
the work supported by the program; and (4) the ability of the 75565
program and recipients of grant funding from the program to engage 75566
in activities that are collaborative, complementary, and efficient 75567
with respect to the expenditure of state funds. Each alignment 75568
program shall provide annual reports to the Third Frontier 75569
Commission discussing existing, planned, or possible 75570
collaborations between programs and recipients of grant funding 75571
related to technology, development, commercialization, and 75572
supporting Ohio's economic development. The annual review by the 75573
Third Frontier Commission shall be a comprehensive review of the 75574
entire state science and technology program portfolio rather than 75575
a review of individual programs. 75576

Applicants for Third Frontier and Alignment Program funding 75577
shall identify their requirements for high-performance computing 75578
facilities and services, including both hardware and software, in 75579
all proposals. If an applicant's requirements exceed approximately 75580
\$100,000 for a proposal, the Ohio Supercomputer Center shall 75581

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 its conclusion 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 Program awards shall, as appropriate, be expected to
have a connection to the Third Frontier Network that enables them
and their collaborators to achieve award objectives through the
Third Frontier Network.

Section 203.30. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION
SERVICES

General Revenue Fund

GRF 038-321 Operating Expenses	\$	1,128,275	\$	1,128,275	75596
GRF 038-401 Treatment Services	\$	35,593,265	\$	36,661,063	75597
GRF 038-404 Prevention Services	\$	1,021,483	\$	1,052,127	75598
TOTAL GRF General Revenue Fund	\$	37,743,023	\$	38,841,465	75599

General Services Fund

5T9 038-616 Problem Gambling	\$	285,000	\$	285,000	75601
Services					
TOTAL GSF General Services Fund	\$	285,000	\$	285,000	75602

Group

Federal Special Revenue Fund Group

3G3 038-603 Drug Free Schools	\$	3,500,000	\$	3,500,000	75604
3G4 038-614 Substance Abuse Block	\$	73,000,000	\$	73,000,000	75605

Grant

3H8 038-609 Demonstration Grants	\$	7,093,075	\$	7,093,075	75606
3J8 038-610 Medicaid	\$	42,000,000	\$	46,000,000	75607
3N8 038-611 Administrative	\$	500,000	\$	500,000	75608

Reimbursement

TOTAL FED Federal Special Revenue				75609	
Fund Group	\$	126,093,075	\$	130,093,075	75610
State Special Revenue Fund Group				75611	
475 038-621 Statewide Treatment and Prevention	\$	17,500,000	\$	18,000,000	75612
5BR 038-406 Tobacco Use Prevention and Control Program	\$	265,000	\$	205,000	75613
689 038-604 Education and Conferences	\$	350,000	\$	350,000	75614
TOTAL SSR State Special Revenue				75615	
Fund Group	\$	18,115,000	\$	18,555,000	75616
TOTAL ALL BUDGET FUND GROUPS	\$	182,236,098	\$	187,774,540	75617

TREATMENT SERVICES 75618

Of the foregoing appropriation item 038-401, Treatment 75619
Services, not more than \$8,190,000 shall be used by the Department 75620
of Alcohol and Drug Addiction Services for program grants for 75621
priority populations in each year of the biennium. 75622

SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN 75623

Of the foregoing appropriation item 038-401, Treatment 75624
Services, \$4 million in each fiscal year shall be used to provide 75625
substance abuse services to families involved in the child welfare 75626
system under the requirements of Am. Sub. H.B. 484 of the 122nd 75627
General Assembly. 75628

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS 75629

Of the foregoing appropriation item 038-401, Treatment 75630
Services, \$5 million each year shall be used to fund TANF-eligible 75631
expenditures for substance abuse prevention and treatment services 75632
to children, or their families, whose income is at or below 200 75633
per cent of the official income poverty guideline. The Director of 75634
Alcohol and Drug Addiction Services and the Director of Job and 75635

Family Services shall develop operating and reporting guidelines 75636
for these programs. 75637

THERAPEUTIC COMMUNITIES 75638

Of the foregoing appropriation item 038-401, Treatment 75639
Services, \$750,000 shall be used in each fiscal year for expansion 75640
of the Therapeutic Communities Program in the Department of 75641
Rehabilitation and Correction. 75642

PARENT AWARENESS TASK FORCE 75643

The Parent Awareness Task Force shall study ways to engage 75644
more parents in activities, coalitions, and educational programs 75645
in Ohio relating to alcohol and other drug abuse prevention. Of 75646
the foregoing appropriation item 038-404, Prevention Services, 75647
\$30,000 in each fiscal year may be used to support the functions 75648
of the Parent Awareness Task Force. 75649

Section 203.36. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 75650

General Services Fund Group 75651
4K9 891-609 Operating Expenses \$ 489,197 \$ 489,197 75652
TOTAL GSF General Services Fund 75653
Group \$ 489,197 \$ 489,197 75654
TOTAL ALL BUDGET FUND GROUPS \$ 489,197 \$ 489,197 75655

Section 203.39. ART OHIO ARTS COUNCIL 75657

General Revenue Fund 75658
GRF 370-100 Personal Services \$ 1,798,235 \$ 1,798,235 75659
GRF 370-200 Maintenance \$ 459,746 \$ 459,746 75660
GRF 370-300 Equipment \$ 4,700 \$ 4,700 75661
GRF 370-502 Program Subsidies \$ 8,975,480 \$ 8,975,480 75662
TOTAL GRF General Revenue Fund \$ 11,238,161 \$ 11,238,161 75663
General Services Fund Group 75664
4B7 370-603 Per Cent for Art \$ 86,366 \$ 86,366 75665

Acquisitions				
460	370-602	Gifts and Donations	\$ 400,000	\$ 400,000 75666
TOTAL GSF General Services Fund			\$ 486,366	\$ 486,366 75667
Group				
Federal Special Revenue Fund Group				75668
314	370-601	Federal Programs	\$ 1,537,200	\$ 1,537,200 75669
TOTAL FED Federal Special Revenue			\$ 1,537,200	\$ 1,537,200 75670
Fund Group				
TOTAL ALL BUDGET FUND GROUPS			\$ 13,261,727	\$ 13,261,727 75671
PROGRAM SUBSIDIES				75672
A museum is not eligible to receive funds from appropriation				75673
item 370-502, Program Subsidies, if \$8,000,000 or more in capital				75674
appropriations were appropriated by the state for the museum				75675
between January 1, 1986, and December 31, 2002.				75676
Section 203.45. ATH ATHLETIC COMMISSION				75677
General Services Fund Group				75678
4K9	175-609	Operating Expenses	\$ 248,150	\$ 0 75679
TOTAL GSF General Services Fund			\$ 248,150	\$ 0 75680
Group				
TOTAL ALL BUDGET FUND GROUPS			\$ 248,150	\$ 0 75681
Section 203.48. AGO ATTORNEY GENERAL				75683
General Revenue Fund				75684
GRF	055-321	Operating Expenses	\$ 42,118,150	\$ 52,610,156 75685
GRF	055-411	County Sheriffs' Pay	\$ 760,495	\$ 779,509 75686
Supplement				
GRF	055-415	County Prosecutors'	\$ 740,704	\$ 759,222 75687
Pay Supplement				
TOTAL GRF General Revenue Fund			\$ 43,619,349	\$ 54,148,887 75688
General Services Fund Group				75689

106	055-612	General Reimbursement	\$	21,370,196	\$	21,370,196	75690
107	055-624	Employment Services	\$	850,000	\$	850,000	75691
195	055-660	Workers' Compensation	\$	7,769,628	\$	7,769,628	75692
		Section					
4Y7	055-608	Title Defect	\$	250,000	\$	250,000	75693
		Rescission					
4Z2	055-609	BCI Asset Forfeiture	\$	1,332,109	\$	1,332,109	75694
		and Cost Reimbursement					
418	055-615	Charitable Foundations	\$	4,899,066	\$	4,899,066	75695
420	055-603	Attorney General	\$	446,449	\$	446,449	75696
		Antitrust					
421	055-617	Police Officers'	\$	1,693,213	\$	1,693,213	75697
		Training Academy Fee					
5A9	055-618	Telemarketing Fraud	\$	7,500	\$	7,500	75698
		Enforcement					
590	055-633	Peace Officer Private	\$	98,370	\$	98,370	75699
		Security Fund					
629	055-636	Corrupt Activity	\$	15,000	\$	15,000	75700
		Investigation and					
		Prosecution					
631	055-637	Consumer Protection	\$	1,373,832	\$	1,373,832	75701
		Enforcement					
TOTAL GSF General Services Fund							75702
Group			\$	40,105,363	\$	40,105,363	75703
Federal Special Revenue Fund Group							75704
3E5	055-638	Attorney General	\$	1,981,102	\$	1,981,102	75705
		Pass-Through Funds					
3R6	055-613	Attorney General	\$	3,842,097	\$	3,842,097	75706
		Federal Funds					
306	055-620	Medicaid Fraud Control	\$	2,799,000	\$	2,799,000	75707
381	055-611	Civil Rights Legal	\$	390,815	\$	390,815	75708
		Service					
383	055-634	Crime Victims	\$	18,439,313	\$	18,439,313	75709

Assistance

TOTAL FED Federal Special Revenue				75710	
Fund Group	\$	27,452,327	\$	27,452,327	75711
State Special Revenue Fund Group				75712	
4L6 055-606 DARE	\$	3,927,962	\$	3,927,962	75713
402 055-616 Victims of Crime	\$	30,000,000	\$	30,000,000	75714
419 055-623 Claims Section	\$	23,671,954	\$	15,149,954	75715
659 055-641 Solid and Hazardous	\$	621,159	\$	621,159	75716

Waste Background

Investigations

TOTAL SSR State Special Revenue				75717	
Fund Group	\$	58,221,075	\$	49,699,075	75718
Holding Account Redistribution Fund Group				75719	
R04 055-631 General Holding	\$	275,000	\$	275,000	75720

Account

R05 055-632 Antitrust Settlements	\$	1,000	\$	1,000	75721
R18 055-630 Consumer Frauds	\$	300,000	\$	300,000	75722
R42 055-601 Organized Crime	\$	25,025	\$	25,025	75723

Commission Account

TOTAL 090 Holding Account				75724	
Redistribution Fund Group	\$	601,025	\$	601,025	75725
TOTAL ALL BUDGET FUND GROUPS	\$	169,999,139	\$	172,006,677	75726

COUNTY SHERIFFS' PAY SUPPLEMENT 75727

The foregoing appropriation item 055-411, County Sheriffs' 75728
Pay Supplement, shall be used for the purpose of supplementing the 75729
annual compensation of county sheriffs as required by section 75730
325.06 of the Revised Code. 75731

COUNTY PROSECUTORS' PAY SUPPLEMENT 75732

The foregoing appropriation item 055-415, County Prosecutors' 75733
Pay Supplement, shall be used for the purpose of supplementing the 75734
annual compensation of certain county prosecutors as required by 75735

section 325.111 of the Revised Code. 75736

WORKERS' COMPENSATION SECTION 75737

The Workers' Compensation Section Fund (Fund 195) is entitled 75738
to receive payments from the Bureau of Workers' Compensation and 75739
the Ohio Industrial Commission at the beginning of each quarter of 75740
each fiscal year to fund legal services to be provided to the 75741
Bureau of Workers' Compensation and the Ohio Industrial Commission 75742
during the ensuing quarter. The advance payment shall be subject 75743
to adjustment. 75744

In addition, the Bureau of Workers' Compensation shall 75745
transfer payments at the beginning of each quarter for the support 75746
of the Workers' Compensation Fraud Unit. 75747

All amounts shall be mutually agreed upon by the Attorney 75748
General, the Bureau of Workers' Compensation, and the Ohio 75749
Industrial Commission. 75750

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 75751

The foregoing appropriation item 055-636, Corrupt Activity 75752
Investigation and Prosecution, shall be used as provided by 75753
division (D)(2) of section 2923.35 of the Revised Code to dispose 75754
of the proceeds, fines, and penalties credited to the Corrupt 75755
Activity Investigation and Prosecution Fund, which is created in 75756
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 75757
is determined that additional amounts are necessary for this 75758
purpose, the amounts are hereby appropriated. 75759

ATTORNEY GENERAL PASS-THROUGH FUNDS 75760

The foregoing appropriation item 055-638, Attorney General 75761
Pass-Through Funds, shall be used to receive federal grant funds 75762
provided to the Attorney General by other state agencies, 75763
including, but not limited to, the Department of Youth Services 75764
and the Department of Public Safety. 75765

ANTITRUST SETTLEMENTS 75766

The foregoing appropriation item 055-632, Antitrust 75767
Settlements, shall be used to distribute court-ordered antitrust 75768
settlements in which the Office of Attorney General represents the 75769
state or a political subdivision under section 109.81 of the 75770
Revised Code. If it is determined that additional amounts are 75771
necessary for this purpose, the amounts are hereby appropriated. 75772

CONSUMER FRAUDS 75773

The foregoing appropriation item 055-630, Consumer Frauds, 75774
shall be used for distribution of moneys from court-ordered 75775
judgments against sellers in actions brought by the Office of 75776
Attorney General under sections 1334.08 and 4549.48 and division 75777
(B) of section 1345.07 of the Revised Code. These moneys shall be 75778
used to provide restitution to consumers victimized by the fraud 75779
that generated the court-ordered judgments. If it is determined 75780
that additional amounts are necessary for this purpose, the 75781
amounts are hereby appropriated. 75782

ORGANIZED CRIME COMMISSION ACCOUNT 75783

The foregoing appropriation item 055-601, Organized Crime 75784
Commission Account, shall be used by the Organized Crime 75785
Investigations Commission, as provided by section 177.011 of the 75786
Revised Code, to reimburse political subdivisions for the expenses 75787
the political subdivisions incur when their law enforcement 75788
officers participate in an organized crime task force. If it is 75789
determined that additional amounts are necessary for this purpose, 75790
the amounts are hereby appropriated. 75791

Section 203.51. AUD AUDITOR OF STATE 75792

General Revenue Fund 75793

GRF 070-321 Operating Expenses \$ 29,014,425 \$ 28,964,425 75794

GRF 070-403 Fiscal Watch/Emergency \$ 500,000 \$ 500,000 75795

		Technical Assistance				
GRF	070-405	Electronic Data	\$	823,193	\$	823,193 75796
		Processing - Auditing				
		and Administration				
GRF	070-406	Uniform Accounting	\$	1,588,538	\$	1,588,538 75797
		Network/Technology				
		Improvements Fund				
TOTAL GRF		General Revenue Fund	\$	31,926,156	\$	31,876,156 75798
		Auditor of State Fund Group				75799
R06	070-604	Continuous Receipts	\$	35,000	\$	35,000 75800
109	070-601	Public Audit Expense -	\$	9,300,000	\$	9,300,000 75801
		Intra-State				
422	070-601	Public Audit Expense -	\$	31,104,840	\$	31,104,840 75802
		Local Government				
584	070-603	Training Program	\$	131,250	\$	131,250 75803
675	070-605	Uniform Accounting	\$	3,317,336	\$	3,317,336 75804
		Network				
TOTAL AUS		Auditor of State Fund				75805
Group			\$	43,888,426	\$	43,888,426 75806
TOTAL ALL BUDGET FUND GROUPS			\$	75,814,582	\$	75,764,582 75807
		BILLING PRACTICES PILOT REVIEW				75808
		Of the foregoing appropriation item 070-321, Operating				75809
		Expenses, \$50,000 shall be used by the Auditor of State to conduct				75810
		a pilot review of the billing practices of facilities licensed by				75811
		the Department of Mental Health and the Department of Job and				75812
		Family Services that serve children in a residential setting for				75813
		whom mental health treatment services are provided. In conducting				75814
		this review, the Auditor of State shall have access to any				75815
		information, records, or other data that would otherwise be				75816
		available to any federal, state, or local public agency that				75817
		provides funding to the facility.				75818
		The Auditor of State shall prepare a report on the				75819

conclusions of the pilot review, and shall furnish copies of the 75820
report to the Governor, the Speaker of the House of 75821
Representatives, and the President of the Senate, as well as to 75822
the majority and minority leaders of the House of Representatives 75823
and the Senate, by June 30, 2006. 75824

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 75825

The foregoing appropriation item 070-403, Fiscal 75826
Watch/Emergency Technical Assistance, shall be used for all 75827
expenses incurred by the Office of the Auditor of State in its 75828
role relating to fiscal watch or fiscal emergency activities under 75829
Chapters 118. and 3316. of the Revised Code. Expenses include, but 75830
are not limited to, the following: duties related to the 75831
determination or termination of fiscal watch or fiscal emergency 75832
of municipal corporations, counties, or townships as outlined in 75833
Chapter 118. of the Revised Code and of school districts as 75834
outlined in Chapter 3316. of the Revised Code; development of 75835
preliminary accounting reports; performance of annual forecasts; 75836
provision of performance audits; and supervisory, accounting, or 75837
auditing services for the mentioned public entities and school 75838
districts. The unencumbered balance of appropriation item 070-403, 75839
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 75840
year 2006 is transferred to fiscal year 2007 for use under the 75841
same appropriation item. 75842

ELECTRONIC DATA PROCESSING 75843

The unencumbered balance of appropriation item 070-405, 75844
Electronic Data Processing - Auditing and Administration, at the 75845
end of fiscal year 2006 is transferred to fiscal year 2007 for use 75846
under the same appropriation item. 75847

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND 75848

The foregoing appropriation item 070-406, Uniform Accounting 75849
Network/Technology Improvements Fund, shall be used to pay the 75850

costs of developing and implementing the Uniform Accounting 75851
 Network and technology improvements for the Office of the Auditor 75852
 of State. The unencumbered balance of the appropriation at the end 75853
 of fiscal year 2006 is transferred to fiscal year 2007 to pay the 75854
 costs of developing and implementing the Uniform Accounting 75855
 Network and technology improvements for the Office of the Auditor 75856
 of State. 75857

Section 203.54. BRB BOARD OF BARBER EXAMINERS 75858

General Services Fund Group 75859
 4K9 877-609 Operating Expenses \$ 568,126 \$ 0 75860
 TOTAL GSF General Services Fund 75861
 Group \$ 568,126 \$ 0 75862
 TOTAL ALL BUDGET FUND GROUPS \$ 568,126 \$ 0 75863

Section 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT 75865

General Revenue Fund 75866
 GRF 042-321 Budget Development and \$ 2,143,886 \$ 2,143,886 75867
 Implementation
 GRF 042-410 National Association \$ 27,089 \$ 28,173 75868
 Dues
 GRF 042-412 Audit of Auditor of \$ 55,900 \$ 58,700 75869
 State
 GRF 042-435 Gubernatorial \$ 0 \$ 250,000 75870
 Transition
 TOTAL GRF General Revenue Fund \$ 2,226,875 \$ 2,480,759 75871
 General Services Fund Group 75872
 105 042-603 Accounting and \$ 9,781,085 \$ 9,976,689 75873
 Budgeting
 TOTAL GSF General Services Fund \$ 9,781,085 \$ 9,976,689 75874
 Group
 State Special Revenue Fund Group 75875

5N4 042-602 OAKS Project	\$	2,262,441	\$	2,272,595	75876
Implementation					
TOTAL SSR State Special Revenue	\$	2,262,441	\$	2,272,595	75877
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,270,401	\$	14,730,043	75878
AUDIT COSTS					75879
Of the foregoing appropriation item 042-603, Accounting and					75880
Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000					75881
in fiscal year 2007 shall be used to pay for centralized audit					75882
costs associated with either Single Audit Schedules or financial					75883
statements prepared in conformance with generally accepted					75884
accounting principles for the state.					75885
OAKS PROJECT IMPLEMENTATION					75886
Notwithstanding section 126.25 of the Revised Code, in fiscal					75887
years 2006 and 2007, rebates or revenue shares received from any					75888
state payment card program established under division (B) of					75889
section 126.21 of the Revised Code may be deposited into the OAKS					75890
Project Implementation Fund (Fund 5N4).					75891
Section 203.60. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD					75892
General Revenue Fund					75893
GRF 874-100 Personal Services	\$	1,900,000	\$	1,900,000	75894
GRF 874-320 Maintenance and	\$	992,269	\$	952,269	75895
Equipment					
TOTAL GRF General Revenue Fund	\$	2,892,269	\$	2,852,269	75896
General Services Fund Group					75897
4G5 874-603 Capitol Square	\$	15,000	\$	15,000	75898
Maintenance Expenses					
4S7 874-602 Statehouse Gift	\$	770,484	\$	770,484	75899
Shop/Events					
TOTAL GSF General Services					75900

Fund Group	\$	785,484	\$	785,484	75901
Underground Parking Garage					75902
208 874-601 Underground Parking	\$	2,959,721	\$	2,959,721	75903
Garage Operating					
TOTAL UPG Underground Parking					75904
Garage	\$	2,959,721	\$	2,959,721	75905
TOTAL ALL BUDGET FUND GROUPS	\$	6,637,474	\$	6,597,474	75906

EXPANSION OF COMMITTEE HEARING ROOMS 75907

Of the foregoing appropriation item 874-320, Maintenance and 75908
Equipment, \$40,000 in fiscal year 2006 shall be used to expand the 75909
House of Representatives committee hearing rooms, numbers 119 and 75910
121. 75911

Section 203.63. SCR STATE BOARD OF CAREER COLLEGES AND 75912
SCHOOLS 75913

General Services Fund Group					75914
4K9 233-601 Operating Expenses	\$	486,700	\$	508,600	75915
TOTAL GSF General Services Fund	\$	486,700	\$	508,600	75916
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	486,700	\$	508,600	75917

Section 203.66. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 75919

General Services Fund Group					75920
4K9 930-609 Operating Expenses	\$	452,976	\$	0	75921
TOTAL GSF General Services Fund	\$	452,976	\$	0	75922
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	452,976	\$	0	75923

Section 203.69. CHR STATE CHIROPRACTIC BOARD 75925

General Services Fund Group					75926
4K9 878-609 Operating Expenses	\$	605,278	\$	0	75927

TOTAL GSF General Services Fund				75928
Group	\$	605,278	\$	0 75929
TOTAL ALL BUDGET FUND GROUPS	\$	605,278	\$	0 75930

Section 203.72. CIV OHIO CIVIL RIGHTS COMMISSION 75932

General Revenue Fund				75933
GRF 876-321 Operating Expenses	\$	7,253,075	\$	7,470,667 75934
TOTAL GRF General Revenue Fund	\$	7,253,075	\$	7,470,667 75935
Federal Special Revenue Fund Group				75936
334 876-601 Investigations	\$	3,760,000	\$	3,560,000 75937
TOTAL FED Federal Special Revenue				75938
Fund Group	\$	3,760,000	\$	3,560,000 75939
State Special Revenue Fund Group				75940
217 876-604 Operations Support	\$	50,951	\$	50,951 75941
TOTAL SSR State Special				75942
Revenue Fund Group	\$	50,951	\$	50,951 75943
TOTAL ALL BUDGET FUND GROUPS	\$	11,064,026	\$	11,081,618 75944

Section 203.75. COM DEPARTMENT OF COMMERCE 75946

General Revenue Fund				75947
GRF 800-410 Labor and Worker	\$	2,086,477	\$	2,032,397 75948
Safety				
Total GRF General Revenue Fund	\$	2,086,477	\$	2,032,397 75949
General Services Fund Group				75950
163 800-620 Division of	\$	4,262,314	\$	4,368,037 75951
Administration				
163 800-637 Information Technology	\$	2,733,853	\$	2,785,045 75952
5F1 800-635 Small Government Fire	\$	250,000	\$	250,000 75953
Departments				
543 800-602 Unclaimed	\$	7,351,051	\$	7,351,051 75954
Funds-Operating				
543 800-625 Unclaimed Funds-Claims	\$	52,000,000	\$	55,000,000 75955

TOTAL GSF General Services Fund				75956
Group	\$	66,597,218	\$ 69,754,133	75957
Federal Special Revenue Fund Group				75958
348 800-622 Underground Storage Tanks	\$	195,008	\$ 195,008	75959
348 800-624 Leaking Underground Storage Tanks	\$	1,850,000	\$ 1,850,000	75960
TOTAL FED Federal Special Revenue Fund Group	\$	2,045,008	\$ 2,045,008	75961
State Special Revenue Fund Group				75962
4B2 800-631 Real Estate Appraisal Recovery	\$	35,000	\$ 35,000	75963
4H9 800-608 Cemeteries	\$	273,465	\$ 273,465	75964
4X2 800-619 Financial Institutions	\$	2,400,843	\$ 2,400,843	75965
5K7 800-621 Penalty Enforcement	\$	50,000	\$ 50,000	75966
544 800-612 Banks	\$	6,757,197	\$ 6,759,197	75967
545 800-613 Savings Institutions	\$	2,678,248	\$ 2,669,774	75968
546 800-610 Fire Marshal	\$	12,187,994	\$ 12,292,994	75969
546 800-639 Fire Department Grants	\$	1,647,140	\$ 1,647,140	75970
547 800-603 Real Estate Education/Research	\$	250,000	\$ 250,000	75971
548 800-611 Real Estate Recovery	\$	50,000	\$ 50,000	75972
549 800-614 Real Estate	\$	3,605,892	\$ 3,605,892	75973
550 800-617 Securities	\$	4,300,000	\$ 4,400,000	75974
552 800-604 Credit Union	\$	2,936,852	\$ 2,941,852	75975
553 800-607 Consumer Finance	\$	4,300,445	\$ 4,300,445	75976
556 800-615 Industrial Compliance	\$	25,037,257	\$ 25,037,257	75977
6A4 800-630 Real Estate Appraiser-Operating	\$	664,006	\$ 664,006	75978
653 800-629 UST Registration/Permit Fee	\$	1,249,632	\$ 1,249,632	75979
TOTAL SSR State Special Revenue				75980

Fund Group	\$	68,423,971	\$	68,627,497	75982
Liquor Control Fund Group					75983
043 800-601 Merchandising	\$	382,595,409	\$	397,839,347	75984
043 800-627 Liquor Control	\$	16,873,183	\$	15,981,346	75985
Operating					
043 800-633 Development Assistance	\$	32,158,300	\$	39,230,000	75986
Debt Service					
043 800-636 Revitalization Debt	\$	9,740,500	\$	13,485,800	75987
Service					
TOTAL LCF Liquor Control					75988
Fund Group	\$	441,367,392	\$	466,536,493	75989
TOTAL ALL BUDGET FUND GROUPS	\$	580,520,066	\$	608,995,528	75990

SMALL GOVERNMENT FIRE DEPARTMENTS 75991

Notwithstanding section 3737.17 of the Revised Code, the 75992
foregoing appropriation item 800-635, Small Government Fire 75993
Departments, may be used to provide loans to private fire 75994
departments. 75995

PENALTY ENFORCEMENT 75996

The foregoing appropriation item 800-621, Penalty 75997
Enforcement, shall be used to enforce sections 4115.03 to 4115.16 75998
of the Revised Code. 75999

UNCLAIMED FUNDS PAYMENTS 76000

The foregoing appropriation item 800-625, Unclaimed 76001
Funds-Claims, shall be used to pay claims under section 169.08 of 76002
the Revised Code. If it is determined that additional amounts are 76003
necessary, the amounts are hereby appropriated. 76004

UNCLAIMED FUNDS TRANSFERS 76005

Notwithstanding division (A) of section 169.05 of the Revised 76006
Code, prior to June 30, 2006, and upon the request of the Director 76007
of Budget and Management, the Director of Commerce shall transfer 76008

to the General Revenue Fund up to \$50,000,000 of unclaimed funds 76009
that have been reported by holders of unclaimed funds under 76010
section 169.05 of the Revised Code, irrespective of the allocation 76011
of the unclaimed funds under that section. 76012

Notwithstanding division (A) of section 169.05 of the Revised 76013
Code, prior to June 30, 2007, and upon the request of the Director 76014
of Budget and Management, the Director of Commerce shall transfer 76015
to the General Revenue Fund up to \$50,000,000 of unclaimed funds 76016
that have been reported by holders of unclaimed funds under 76017
section 169.05 of the Revised Code, irrespective of the allocation 76018
of the unclaimed funds under that section. 76019

CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546) 76020

Effective July 1, 2005, or as soon thereafter as possible, 76021
the Director of Budget and Management shall transfer the cash 76022
balance in the Fire Marshal's Fireworks Training and Education 76023
Fund (Fund 4L5), which is abolished in division (B) of section 76024
3743.57 of the Revised Code as amended by this act, to the State 76025
Fire Marshal's Fund (Fund 546), which is created in section 76026
3737.71 of the Revised Code. The director shall cancel any 76027
existing encumbrances against appropriation item 800-609, 76028
Fireworks Training and Education, in Fund 4L5, and re-establish 76029
them against appropriation item 800-610, Fire Marshal, in Fund 76030
546. The amounts of the re-established encumbrances are hereby 76031
appropriated. 76032

CASH TRANSFER TO BUDGET STABILIZATION FUND 76033

Notwithstanding any other law to the contrary, the Director 76034
of Budget and Management shall transfer up to \$1,700,000 in cash 76035
in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 76036
2007 from the State Fire Marshal Fund (Fund 546) to the Budget 76037
Stabilization Fund. 76038

FIRE DEPARTMENT GRANTS 76039

Of the foregoing appropriation item 800-639, Fire Department 76040
Grants, up to \$760,000 in each fiscal year shall be used to make 76041
annual grants to volunteer fire departments of up to \$10,000, or 76042
up to \$25,000 if the volunteer fire department provides service 76043
for an area affected by a natural disaster. The grant program 76044
shall be administered by the Fire Marshal under the Department of 76045
Commerce. The Fire Marshal shall adopt rules as are necessary for 76046
the administration and operation of the grant program. 76047

Of the foregoing appropriation item 800-639, Fire Department 76048
Grants, up to \$687,140 in each fiscal year shall be used as full 76049
or partial reimbursement to local units of government and fire 76050
departments for the cost of firefighter training and equipment or 76051
gear. Under rules that the department shall adopt, a local unit of 76052
government or fire department may apply to the department for a 76053
grant to cover all documented costs that are incurred to provide 76054
firefighter training and equipment or gear. The department shall 76055
make grants within the limits of the funding provided, with 76056
priority given to fire departments that serve small villages and 76057
townships. 76058

Of the foregoing appropriation item 800-639, Fire Department 76059
Grants, up to \$200,000 in each fiscal year shall be used to make 76060
grants to fire departments to assist in the conversion of existing 76061
data systems to the NFIRS 5 electronic fire reporting system. 76062
Under rules that the department shall adopt, awards shall have a 76063
maximum of \$50,000 per fire department and shall be based on a 76064
point system that includes factors such as consideration of the 76065
fire department's information technology and operating budgets, 76066
population and area served, number of incidents, data conversion 76067
and implementation methods, and readiness. 76068

CASH TRANSFER TO REAL ESTATE OPERATING FUND 76069

At the request of the Director of Commerce, the Director of 76070

Budget and Management may transfer up to \$100,000 in cash from the
Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash
from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the
Real Estate Operating Fund (Fund 549) during the 2005-2007
biennium.

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 76076

The foregoing appropriation item 800-601, Merchandising,
shall be used under section 4301.12 of the Revised Code. If it is
determined that additional amounts are necessary, the amounts are
hereby appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE 76081

The foregoing appropriation item 800-633, Development
Assistance Debt Service, shall be used to meet all payments at the
times they are required to be made during the period from July 1,
2005, to June 30, 2007, for bond service charges on obligations
issued under Chapter 166. of the Revised Code. If it is determined
that additional appropriations are necessary for this purpose,
such amounts are hereby appropriated, subject to the limitations
set forth in section 166.11 of the Revised Code. The General
Assembly acknowledges that an appropriation for this purpose is
not required, but is made in this form and in this act for record
purposes only.

REVITALIZATION DEBT SERVICE 76093

The foregoing appropriation item 800-636, Revitalization Debt
Service, shall be used to pay debt service and related financing
costs under sections 151.01 and 151.40 of the Revised Code during
the period from July 1, 2005, to June 30, 2007. If it is
determined that additional appropriations are necessary for this
purpose, such amounts are hereby appropriated. The General
Assembly acknowledges the priority of the pledge of a portion of
receipts from that source to obligations issued and to be issued

under Chapter 166. of the Revised Code.				76102
ADMINISTRATIVE ASSESSMENTS				76103
Notwithstanding any other provision of law to the contrary,				76104
Fund 163, Division of Administration, is entitled to receive				76105
assessments from all operating funds of the department in				76106
accordance with procedures prescribed by the Director of Commerce				76107
and approved by the Director of Budget and Management.				76108
Section 203.78. OCC OFFICE OF CONSUMERS' COUNSEL				76109
General Services Fund Group				76110
5F5 053-601 Operating Expenses	\$	7,770,000	\$ 7,770,000	76111
TOTAL GSF General Services Fund	\$	7,770,000	\$ 7,770,000	76112
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	7,770,000	\$ 7,770,000	76113
Section 203.81. CEB CONTROLLING BOARD				76115
General Revenue Fund				76116
GRF 911-401 Emergency	\$	12,150,000	\$ 7,000,000	76117
Purposes/Contingencies				
GRF 911-404 Mandate Assistance	\$	650,000	\$ 650,000	76118
GRF 911-441 Ballot Advertising	\$	300,000	\$ 300,000	76119
Costs				
TOTAL GRF General Revenue Fund	\$	13,100,000	\$ 7,950,000	76120
TOTAL ALL BUDGET FUND GROUPS	\$	13,100,000	\$ 7,950,000	76121
FEDERAL SHARE				76122
In transferring appropriations to or from appropriation items				76123
that have federal shares identified in this act, the Controlling				76124
Board shall add or subtract corresponding amounts of federal				76125
matching funds at the percentages indicated by the state and				76126
federal division of the appropriations in this act. Such changes				76127
are hereby appropriated.				76128

DISASTER ASSISTANCE 76129

Pursuant to requests submitted by the Department of Public 76130
Safety, the Controlling Board may approve transfers from 76131
appropriation item 911-401, Emergency Purposes/Contingencies, to 76132
Department of Public Safety appropriation items to provide funding 76133
for assistance to political subdivisions and individuals made 76134
necessary by natural disasters or emergencies. Such transfers may 76135
be requested and approved prior to or following the occurrence of 76136
any specific natural disasters or emergencies in order to 76137
facilitate the provision of timely assistance. 76138

DISASTER SERVICES 76139

Pursuant to requests submitted by the Department of Public 76140
Safety, the Controlling Board may approve transfers from the 76141
Disaster Services Fund (5E2) to a Department of Public Safety 76142
General Revenue Fund appropriation item to provide for assistance 76143
to political subdivisions made necessary by natural disasters or 76144
emergencies. These transfers may be requested and approved prior 76145
to the occurrence of any specific natural disasters or emergencies 76146
in order to facilitate the provision of timely assistance. The 76147
Emergency Management Agency of the Department of Public Safety 76148
shall use the funding for disaster aid requests that meet the 76149
Emergency Management Agency's criteria for assistance. 76150

The Disaster Services Fund (5E2) shall be used by the 76151
Controlling Board, pursuant to requests submitted by state 76152
agencies, to transfer cash and appropriation authority to any fund 76153
and appropriation item for the payment of state agency program 76154
expenses as follows: 76155

(A) The Southern Ohio flooding, referred to as 76156
FEMA-DR-1164-OH; 76157

(B) The flood and storm disaster referred to as 76158
FEMA-DR-1227-OH; 76159

(C) The Southern Ohio flooding, referred to as 76160
FEMA-DR-1321-OH; 76161

(D) The flooding referred to as FEMA-DR-1339-OH; 76162

(E) The tornado and storms referred to as FEMA-DR-1343-OH; 76163

(F) Other disasters declared by the Governor, if the Director 76164
of Budget and Management determines that sufficient funds exist 76165
beyond the expected program costs of these other disasters. 76166

The unencumbered balance of the Disaster Services Fund (5E2) 76167
at the end of fiscal year 2006 is transferred to fiscal year 2007 76168
for use for the same purposes as in fiscal year 2006. 76169

SOUTHERN OHIO CORRECTIONAL FACILITY COST 76170

The Division of Criminal Justice Services in the Department 76171
of Public Safety and the Public Defender Commission may each 76172
request, upon approval of the Director of Budget and Management, 76173
additional funds from appropriation item 911-401, Emergency 76174
Purposes/Contingencies, for costs related to the disturbance that 76175
occurred on April 11, 1993, at the Southern Ohio Correctional 76176
Facility in Lucasville, Ohio. 76177

MANDATE ASSISTANCE 76178

(A) The foregoing appropriation item 911-404, Mandate 76179
Assistance, shall be used to provide financial assistance to local 76180
units of government and school districts for the cost of the 76181
following two unfunded state mandates: 76182

(1) The cost to county prosecutors for prosecuting certain 76183
felonies that occur on the grounds of state institutions operated 76184
by the Department of Rehabilitation and Correction and the 76185
Department of Youth Services; 76186

(2) The cost to school districts of in-service training for 76187
child abuse detection. 76188

(B) The Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.

PROGRAM	ADMINISTERING AGENCY	ESTIMATED ANNUAL AMOUNT
Prosecution Costs	Division of Criminal Justice Services	\$150,000
Child Abuse Detection	Department of Education	\$500,000
Training Costs		

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to the other program of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government and school districts under each of the two programs of state financial assistance identified in this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the

appropriation transfers requested by the Division of Criminal
Justice Services in the Department of Public Safety and the
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.

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(F) Each of these programs of state financial assistance
shall be carried out as follows:

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(1) PROSECUTION COSTS

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(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.

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(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.

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(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

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awards, if sufficient appropriations have been made, up to a total 76251
of \$100,000 may be awarded. In each year's second round of grant 76252
awards, the remaining appropriations available for this purpose 76253
may be awarded. 76254

(d) If for a given round of grants there are insufficient 76255
appropriations to make grant awards to all the eligible counties, 76256
the first priority shall be given to counties with cases involving 76257
aggravated murder and murder; second priority shall be given to 76258
counties with cases involving a felony of the first degree; and 76259
third priority shall be given to counties with cases involving a 76260
felony of the second degree. Within these priorities, the grant 76261
awards shall be based on the order in which the applications were 76262
received, except that applications for cases involving a felony of 76263
the first or second degree shall not be considered in more than 76264
two consecutive rounds of grant awards. 76265

(2) CHILD ABUSE DETECTION TRAINING COSTS 76266

Appropriations may be transferred to the Department of 76267
Education for disbursement to local school districts as full or 76268
partial reimbursement for the cost of providing in-service 76269
training for child abuse detection. In accordance with rules that 76270
the department shall adopt, a local school district may apply to 76271
the department for a grant to cover all documented costs that are 76272
incurred to provide in-service training for child abuse detection. 76273
The department shall make grants within the limits of the funding 76274
provided. 76275

(G) Any moneys allocated within appropriation item 911-404, 76276
Mandate Assistance, not fully utilized may, upon application of 76277
the Ohio Public Defender Commission, and with the approval of the 76278
Controlling Board, be disbursed to boards of county commissioners 76279
to provide additional reimbursement for the costs incurred by 76280
counties in providing defense to indigent defendants pursuant to 76281

Chapter 120. of the Revised Code. Application for the unutilized 76282
funds shall be made by the Ohio Public Defender Commission at the 76283
first June meeting of the Controlling Board. 76284

The amount to be disbursed to each county shall be allocated 76285
proportionately on the basis of the total amount of reimbursement 76286
paid to each county as a percentage of the amount of reimbursement 76287
paid to all of the counties during the most recent state fiscal 76288
year for which data is available and as calculated by the Ohio 76289
Public Defender Commission. 76290

BALLOT ADVERTISING COSTS 76291

Pursuant to requests submitted by the Ohio Ballot Board, the 76292
Controlling Board shall approve transfers from the foregoing 76293
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 76294
Ballot Board appropriation item in order to reimburse county 76295
boards of elections for the cost of public notices associated with 76296
statewide ballot initiatives. 76297

Section 203.84. COS STATE BOARD OF COSMETOLOGY 76298

General Services Fund Group 76299
4K9 879-609 Operating Expenses \$ 2,929,630 \$ 0 76300
TOTAL GSF General Services Fund 76301
Group \$ 2,929,630 \$ 0 76302
TOTAL ALL BUDGET FUND GROUPS \$ 2,929,630 \$ 0 76303

Section 203.87. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 76305
AND FAMILY THERAPIST BOARD 76306

General Services Fund Group 76307
4K9 899-609 Operating Expenses \$ 1,058,445 \$ 0 76308
TOTAL GSF General Services Fund 76309
Group \$ 1,058,445 \$ 0 76310
TOTAL ALL BUDGET FUND GROUPS \$ 1,058,445 \$ 0 76311

Section 203.90. CLA COURT OF CLAIMS				76313
General Revenue Fund				76314
GRF 015-321 Operating Expenses	\$	2,598,040	\$ 2,678,331	76315
TOTAL GRF General Revenue Fund	\$	2,598,040	\$ 2,678,331	76316
State Special Revenue Fund Group				76317
5K2 015-603 CLA Victims of Crime	\$	1,582,684	\$ 1,582,684	76318
TOTAL SSR State Special Revenue				76319
Fund Group	\$	1,582,684	\$ 1,582,684	76320
TOTAL ALL BUDGET FUND GROUPS	\$	4,180,724	\$ 4,261,015	76321
 Section 203.91. AFC OHIO CULTURAL FACILITIES COMMISSION				76323
General Revenue Fund				76324
GRF 371-321 Operating Expenses	\$	198,406	\$ 195,707	76325
GRF 371-401 Lease Rental Payments	\$	38,126,600	\$ 38,246,500	76326
TOTAL GRF General Revenue Fund	\$	38,325,006	\$ 38,442,207	76327
State Special Revenue Fund Group				76328
4T8 371-601 Riffe Theatre	\$	81,000	\$ 81,000	76329
Equipment Maintenance				
4T8 371-603 Project Administration	\$	920,448	\$ 983,295	76330
TOTAL SSR State Special Revenue	\$	1,001,448	\$ 1,064,295	76331
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	39,326,454	\$ 39,506,502	76332
 LEASE RENTAL PAYMENTS				76333
The foregoing appropriation item 371-401, Lease Rental				76334
Payments, shall be used for payments to the Ohio Building				76335
Authority and the Treasurer of State for the period from July 1,				76336
2005, to June 30, 2007, under the primary leases and agreements				76337
for those arts and sports facilities made under Chapters 152. and				76338
154. of the Revised Code, but limited to the aggregate amount of				76339
\$76,373,100. This appropriation is the source of funds pledged for				76340

bond service charges on related obligations issued pursuant to 76341
Chapter 152. of the Revised Code. 76342

OPERATING EXPENSES 76343

The foregoing appropriation item 371-321, Operating Expenses, 76344
shall be used by the Ohio Cultural Facilities Commission to carry 76345
out its responsibilities under this section and Chapter 3383. of 76346
the Revised Code. 76347

By July 10, 2005, or as soon as possible thereafter, the 76348
Director of Budget and Management shall determine the amount of 76349
cash from interest earnings to be transferred from the Ohio 76350
Cultural Facilities Building Fund (Fund 030) to the AFC 76351
Administration Fund (Fund 4T8). 76352

By July 10, 2006, or as soon as possible thereafter, the 76353
Director of Budget and Management shall determine the amount of 76354
cash from interest earnings to be transferred from the Ohio 76355
Cultural Facilities Building Fund (Fund 030) to the AFC 76356
Administration Fund (Fund 4T8). 76357

As soon as possible after each bond issuance made on behalf 76358
of the Cultural Facilities Commission, the Director of Budget and 76359
Management shall determine the amount of cash from the premium 76360
paid on each issuance to be transferred from the Ohio Cultural and 76361
Sports Facilities Building Fund (Fund 030) to the AFC 76362
Administration Fund (Fund 4T8). 76363

Section 203.93. DEN STATE DENTAL BOARD 76364

General Services Fund Group 76365

4K9 880-609 Operating Expenses \$ 1,424,791 \$ 1,424,791 76366

TOTAL GSF General Services Fund 76367

Group \$ 1,424,791 \$ 1,424,791 76368

TOTAL ALL BUDGET FUND GROUPS \$ 1,424,791 \$ 1,424,791 76369

Section 203.96.	BDP BOARD OF DEPOSIT				76371
General Services Fund Group					76372
4M2 974-601 Board of Deposit	\$	1,676,000	\$	1,676,000	76373
TOTAL GSF General Services Fund					76374
Group	\$	1,676,000	\$	1,676,000	76375
TOTAL ALL BUDGET FUND GROUPS	\$	1,676,000	\$	1,676,000	76376
BOARD OF DEPOSIT EXPENSE FUND					76377
Upon receiving certification of expenses from the Treasurer					76378
of State, the Director of Budget and Management shall transfer					76379
cash from the Investment Earnings Redistribution Fund (Fund 608)					76380
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund					76381
shall be used to pay for banking charges and fees required for the					76382
operation of the State of Ohio Regular Account.					76383
Section 203.99.	DEV DEPARTMENT OF DEVELOPMENT				76384
General Revenue Fund					76385
GRF 195-321 Operating Expenses	\$	2,688,908	\$	2,688,908	76386
GRF 195-401 Thomas Edison Program	\$	15,554,838	\$	15,454,838	76387
GRF 195-404 Small Business	\$	1,740,722	\$	1,740,722	76388
Development					
GRF 195-405 Minority Business	\$	1,580,291	\$	1,580,291	76389
Development Division					
GRF 195-407 Travel and Tourism	\$	6,812,845	\$	6,712,845	76390
GRF 195-410 Defense Conversion	\$	300,000	\$	200,000	76391
Assistance					
GRF 195-412 Business Development	\$	11,750,000	\$	11,750,000	76392
Grants					
GRF 195-415 Economic Development	\$	5,794,975	\$	5,894,975	76393
Division and Regional					
Offices					
GRF 195-416 Governor's Office of	\$	4,122,372	\$	4,122,372	76394

	Appalachia					
GRF 195-422	Third Frontier Action Fund	\$	16,790,000	\$	16,790,000	76395
GRF 195-426	Clean Ohio Implementation	\$	300,000	\$	300,000	76396
GRF 195-432	International Trade	\$	4,223,787	\$	4,223,787	76397
GRF 195-434	Investment in Training Grants	\$	12,227,500	\$	12,227,500	76398
GRF 195-436	Labor/Management Cooperation	\$	811,869	\$	811,869	76399
GRF 195-497	CDBG Operating Match	\$	1,040,956	\$	1,040,956	76400
GRF 195-498	State Match Energy	\$	94,000	\$	94,000	76401
GRF 195-501	Appalachian Local Development Districts	\$	380,080	\$	380,080	76402
GRF 195-502	Appalachian Regional Commission Dues	\$	246,803	\$	246,803	76403
GRF 195-507	Travel and Tourism Grants	\$	1,270,000	\$	1,145,000	76404
GRF 195-515	Economic Development Contingency	\$	10,000,000	\$	0	76405
GRF 195-905	Third Frontier Research & Commercialization General Obligation Debt Service	\$	0	\$	13,910,000	76406
TOTAL GRF	General Revenue Fund	\$	97,729,946	\$	101,314,946	76407
	General Services Fund Group					76408
135 195-605	Supportive Services	\$	7,450,000	\$	7,539,686	76409
685 195-636	General Reimbursements	\$	1,000,000	\$	1,000,000	76410
5AD 195-667	Investment in Training Expansion	\$	5,000,000	\$	5,000,000	76411
5AD 195-668	Worker Guarantee Program	\$	3,000,000	\$	3,000,000	76412

5AD 195-677	Economic Development	\$	0	\$	10,000,000	76413
	Contingency					
TOTAL GSF	General Services Fund					76414
Group		\$	16,450,000	\$	26,539,686	76415
Federal Special Revenue Fund	Group					76416
3AE 195-643	Workforce Development	\$	5,800,000	\$	5,800,000	76417
	Initiatives					
3K8 195-613	Community Development	\$	65,000,000	\$	65,000,000	76418
	Block Grant					
3K9 195-611	Home Energy Assistance	\$	90,500,000	\$	90,500,000	76419
	Block Grant					
3K9 195-614	HEAP Weatherization	\$	16,219,478	\$	16,219,478	76420
3L0 195-612	Community Services	\$	25,235,000	\$	25,235,000	76421
	Block Grant					
3V1 195-601	HOME Program	\$	40,000,000	\$	40,000,000	76422
308 195-602	Appalachian Regional	\$	600,660	\$	600,660	76423
	Commission					
308 195-603	Housing and Urban	\$	5,000,000	\$	5,000,000	76424
	Development					
308 195-605	Federal Projects	\$	15,300,249	\$	15,300,249	76425
308 195-609	Small Business	\$	4,296,381	\$	4,296,381	76426
	Administration					
308 195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659	76427
335 195-610	Oil Overcharge	\$	3,000,000	\$	3,000,000	76428
TOTAL FED	Federal Special Revenue					76429
Fund Group		\$	274,349,427	\$	274,349,427	76430
State Special Revenue Fund	Group					76431
4F2 195-639	State Special Projects	\$	290,183	\$	290,183	76432
4F2 195-676	Promote Ohio	\$	5,000,000	\$	5,000,000	76433
4S0 195-630	Enterprise Zone	\$	275,000	\$	275,000	76434
	Operating					
4S1 195-634	Job Creation Tax	\$	375,800	\$	375,800	76435

		Credit Operating					
4W1	195-646	Minority Business	\$	2,580,597	\$	2,580,597	76436
		Enterprise Loan					
444	195-607	Water and Sewer	\$	523,775	\$	523,775	76437
		Commission Loans					
450	195-624	Minority Business	\$	53,967	\$	53,967	76438
		Bonding Program					
		Administration					
451	195-625	Economic Development	\$	2,358,311	\$	2,358,311	76439
		Financing Operating					
5CA	195-678	Shovel Ready Sites	\$	5,000,000	\$	5,000,000	76440
5CG	195-679	Alternative Fuel	\$	150,000	\$	150,000	76441
		Transportation					
5M4	195-659	Universal Service	\$	210,000,000	\$	210,000,000	76442
5M5	195-660	Energy Efficiency Loan	\$	12,000,000	\$	12,000,000	76443
		and Grant					
5X1	195-651	Exempt Facility	\$	25,000	\$	25,000	76444
		Inspection					
611	195-631	Water and Sewer	\$	15,713	\$	15,713	76445
		Administration					
617	195-654	Volume Cap	\$	200,000	\$	200,000	76446
		Administration					
646	195-638	Low- and Moderate-	\$	53,000,000	\$	53,000,000	76447
		Income Housing Trust					
		Fund					
TOTAL SSR		State Special Revenue					76448
Fund Group			\$	291,848,346	\$	291,848,346	76449
Facilities Establishment		Fund Group					76450
009	195-664	Innovation Ohio	\$	50,000,000	\$	50,000,000	76451
010	195-665	Research and	\$	50,000,000	\$	50,000,000	76452
		Development					
037	195-615	Facilities	\$	63,931,149	\$	63,931,149	76453
		Establishment					

4Z6	195-647	Rural Industrial Park Loan	\$	3,000,000	\$	3,000,000	76454
5D2	195-650	Urban Redevelopment Loans	\$	5,475,000	\$	5,475,000	76455
5H1	195-652	Family Farm Loan Guarantee	\$	1,000,000	\$	1,000,000	76456
5S8	195-627	Rural Development Initiative	\$	3,000,000	\$	3,000,000	76457
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000	76458
TOTAL	037	Facilities					76459
Establishment		Fund Group	\$	179,406,149	\$	179,406,149	76460
Clean Ohio		Revitalization Fund					76461
003	195-663	Clean Ohio Operating	\$	350,000	\$	350,000	76462
TOTAL	003	Clean Ohio Revitalization Fund	\$	350,000	\$	350,000	76463
TOTAL	ALL	BUDGET FUND GROUPS	\$	860,133,868	\$	873,808,554	76464

Section 203.99.03. THOMAS EDISON PROGRAM 76466

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.

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.

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.

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, clients.

Of the foregoing appropriation item 195-401, Thomas Edison Program, \$100,000 in fiscal year 2006 shall be used for a technology park in Beavercreek.

Section 203.99.06. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed.

The foregoing appropriation item 195-404, Small Business Development, may be used to provide grants to local organizations to support the operation of Small Business Development Centers and other local economic development activity promoting small business, and for the cost of administering the small business development center program. The centers shall provide technical, financial, and management consultation for small business and shall facilitate access to state and federal programs. These funds shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 (1980) as amended by Public Law No. 98-395 (1984), and regulations and policy guidelines for the programs under this law.

In addition, the Office of Small Business may operate the

1st-Stop Business Connection and implement and coordinate the 76510
duties imposed on the Department of Development by Am. Sub. S.B. 76511
239 of the 115th General Assembly. 76512

MINORITY BUSINESS DEVELOPMENT DIVISION 76513

Of the foregoing appropriation item 195-405, Minority 76514
Business Development Division, up to \$1,060,000 but not less than 76515
\$954,000 in each fiscal year shall be used to fund minority 76516
contractors and business assistance organizations. The Minority 76517
Business Development Division shall determine which cities need 76518
minority contractors and business assistance organizations by 76519
utilizing United States Census Bureau data and zip codes to locate 76520
the highest concentrations of minority businesses. The Minority 76521
Business Development Division also shall determine the numbers of 76522
minority contractors and business assistance organizations 76523
necessary and the amount of funding to be provided each. In 76524
addition, the Minority Business Development Division shall 76525
continue to plan and implement business conferences. 76526

Section 203.99.09. BUSINESS DEVELOPMENT 76527

The foregoing appropriation item 195-412, Business 76528
Development Grants, shall be used as an incentive for attracting 76529
and retaining business opportunities for the state. Any such 76530
business opportunity, whether new, expanding, or relocating in 76531
Ohio, is eligible for funding. The project must create or retain a 76532
significant number of jobs for Ohioans. Grant awards may be 76533
considered only when (1) the project's viability hinges on an 76534
award of funds from appropriation item 195-412, Business 76535
Development Grants; (2) all other public or private sources of 76536
financing have been considered; or (3) the funds act as a catalyst 76537
for the infusion into the project of other financing sources. 76538

The department's primary goal shall be to award funds to 76539

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
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 76570

The foregoing appropriation item 195-416, Governor's Office 76571
of Appalachia, shall be used for the administrative costs of 76572
planning and liaison activities for the Governor's Office of 76573
Appalachia. Funds not expended for planning and liaison activities 76574
may be expended for special project grants within the Appalachian 76575
Region. 76576

Of the foregoing appropriation item 195-416, Governor's 76577
Office of Appalachia, up to \$250,000 each fiscal year shall be 76578
used to match federal funds from the Appalachian Regional 76579
Commission to provide job training to impact the Appalachian 76580
Region. 76581

Of the foregoing appropriation item 195-416, Governor's 76582
Office of Appalachia, up to \$4,122,372 in each fiscal year shall 76583
be used in conjunction with other federal and state funds to 76584
provide financial assistance to projects in Ohio's Appalachian 76585
counties in order to further the goals of the Appalachian Regional 76586
Commission. The projects and project sponsors shall meet 76587
Appalachian Regional Commission eligibility requirements. Grants 76588
shall be administered by the Department of Development. 76589

Section 203.99.18. THIRD FRONTIER ACTION FUND 76590

The foregoing appropriation item 195-422, Third Frontier 76591
Action Fund, shall be used to make grants under sections 184.01 76592
and 184.02 of the Revised Code. Prior to the release of funds from 76593
appropriation item 195-422, Third Frontier Action Fund, each grant 76594
award shall be recommended for funding by the Third Frontier 76595
Commission and obtain approval from the Controlling Board. 76596

Of the foregoing appropriation item 195-422, Third Frontier 76597
Action Fund, not more than six per cent in each fiscal year shall 76598
be used for operating expenditures in administering the program. 76599

In addition to the six per cent for operating expenditures, 76600
an additional administrative amount, not to exceed \$1,500,000 76601
within the biennium, shall be available for proposal evaluation, 76602
research and analyses, and marketing efforts considered necessary 76603
to receive and disseminate information about science and 76604
technology-related opportunities in the state. 76605

SCIENCE AND TECHNOLOGY COLLABORATION 76606

The Department of Development shall work in close 76607
collaboration with the Board of Regents, the Air Quality 76608
Development Authority, and the Third Frontier Commission in 76609
relation to appropriation items and programs referred to as 76610
Alignment Programs in the following paragraph, and other 76611
technology-related appropriations and programs in the Department 76612
of Development, Air Quality Development Authority, and the Board 76613
of Regents as these agencies may designate, to ensure 76614
implementation of a coherent state strategy with respect to 76615
science and technology. 76616

"Alignment Programs" means appropriation items 195-401, 76617
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 76618
Third Frontier Action Fund; 898-604, Coal Research and Development 76619
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 76620
Institute of Technology; 235-510, Ohio Supercomputer Center; 76621
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 76622
235-535, Ohio Agricultural Research and Development Center; 76623
235-553, Dayton Area Graduate Studies Institute; 235-554, 76624
Priorities in Collaborative Graduate Education; 235-556, Ohio 76625
Academic Resources Network; and 195-435, Biomedical Research and 76626
Technology Transfer Trust. 76627

Consistent with the recommendations of the Governor's 76628
Commission on Higher Education and the Economy, Alignment Programs 76629
shall be managed and administered in accordance with the following 76630

objectives: (1) to build on existing competitive research 76631
strengths; (2) to encourage new and emerging discoveries and 76632
commercialization of products and ideas that will benefit the Ohio 76633
economy; (3) and to assure improved collaboration among Alignment 76634
Programs with programs administered by the Third Frontier 76635
Commission and with other state programs that are intended to 76636
improve economic growth and job creation. As directed by the Third 76637
Frontier Commission, Alignment Program managers shall report to 76638
the Commission or the Third Frontier Advisory Board regarding the 76639
contributions of their programs to achieving these objectives. 76640

Each Alignment Program shall be reviewed annually by the 76641
Third Frontier Commission with respect to its development of 76642
complementary relationships within a combined state science and 76643
technology investment portfolio, and with respect to its overall 76644
contribution to the state's science and technology strategy, 76645
including the adoption of appropriately consistent criteria for: 76646
(1) the scientific merit of activities supported by the program; 76647
(2) the relevance of the program's activities to commercial 76648
opportunities in the private sector; (3) the private sector's 76649
involvement in a process that continually evaluates commercial 76650
opportunities to use the work supported by the program; and (4) 76651
the ability of the program and recipients of grant funding from 76652
the program to engage in activities that are collaborative, 76653
complementary, and efficient with respect to the expenditures of 76654
state funds. Each Alignment Program shall provide an annual report 76655
to the Third Frontier Commission that discusses existing, planned, 76656
or possible collaborations between programs and between recipients 76657
of grant funding related to technology, development, 76658
commercialization, and the support of Ohio's economic development. 76659
The annual review conducted by the Third Frontier Commission shall 76660
be a comprehensive review of the entire state science and 76661
technology program portfolio rather than a review of individual 76662

programs. 76663

Applicants for Third Frontier and Alignment Programs funding 76664
shall identify their requirements for high-performance computing 76665
facilities and services, including both hardware and software, in 76666
all proposals. If an applicant's requirements exceed approximately 76667
\$100,000 for a proposal, the Ohio Supercomputer Center shall 76668
convene a panel of experts. The panel shall review the proposal to 76669
determine whether the proposal's requirements can be met through 76670
Ohio Supercomputer Center facilities or through other means and 76671
report such information to the Third Frontier Commission. 76672

To ensure that the state receives the maximum benefit from 76673
its investment in the Third Frontier Project and the Third 76674
Frontier Network, organizations receiving Third Frontier awards 76675
and Alignment Programs awards shall, as appropriate, be expected 76676
to have a connection to the Third Frontier Network that enables 76677
them and their collaborators to achieve award objectives through 76678
the Third Frontier Network. 76679

Section 203.99.21. INTERNATIONAL TRADE 76680

The foregoing appropriation item 195-432, International 76681
Trade, shall be used to operate and to maintain Ohio's 76682
out-of-state trade offices. 76683

The Director of Development may enter into contracts with 76684
foreign nationals to staff foreign offices. The contracts may be 76685
paid in local currency or United States currency and shall be 76686
exempt from section 127.16 of the Revised Code. The director also 76687
may establish foreign currency accounts under section 122.05 of 76688
the Revised Code for the payment of expenses related to the 76689
operation and maintenance of the foreign trade offices. 76690

The foregoing appropriation item 195-432, International 76691
Trade, shall be used to fund the International Trade Division and 76692

to assist Ohio manufacturers and agricultural producers in 76693
exporting to foreign countries in conjunction with the Department 76694
of Agriculture. 76695

Of the foregoing appropriation item 195-432, International 76696
Trade, up to \$35,000 may be used to purchase gifts for 76697
representatives of foreign governments or dignitaries of foreign 76698
countries. 76699

Section 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM 76700

The foregoing appropriation items 195-434, Investment in 76701
Training Grants, and 195-667, Investment in Training Expansion, 76702
shall be used to promote training through grants for the 76703
reimbursement of eligible training expenses. 76704

Section 203.99.27. CDBG OPERATING MATCH 76705

The foregoing appropriation item 195-497, CDBG Operating 76706
Match, shall be used to provide matching funds as requested by the 76707
United States Department of Housing and Urban Development to 76708
administer the federally funded Community Development Block Grant 76709
(CDBG) program. 76710

STATE OPERATING MATCH 76711

The foregoing appropriation item 195-498, State Match Energy, 76712
shall be used to provide matching funds as required by the United 76713
States Department of Energy to administer the federally funded 76714
State Energy Plan. 76715

Section 203.99.30. TRAVEL AND TOURISM GRANTS 76716

The foregoing appropriation item 195-507, Travel and Tourism 76717
Grants, shall be used to provide grants to local organizations to 76718
support various local travel and tourism events in Ohio. 76719

Of the foregoing appropriation item 195-507, Travel and 76720

Tourism Grants, \$25,000 in each fiscal year shall be used for the 76721
Lorain County Visitors Bureau. 76722

Of the foregoing appropriation item 195-507, Travel and 76723
Tourism Grants, \$25,000 in each fiscal year shall be used for the 76724
Sandusky/Erie County Visitors and Convention Bureau. 76725

Of the foregoing appropriation item 195-507, Travel and 76726
Tourism Grants, \$25,000 in each fiscal year shall be used for the 76727
Ottawa County Convention and Visitors Bureau. 76728

Of the foregoing appropriation item 195-507, Travel and 76729
Tourism Grants, \$50,000 in each fiscal year shall be used for the 76730
Greene County Convention and Visitors Bureau. 76731

Of the foregoing appropriation item 195-507, Travel and 76732
Tourism Grants, \$45,000 in each fiscal year shall be used for the 76733
Warren County Convention and Visitors Bureau. 76734

Of the foregoing appropriation item 195-507, Travel and 76735
Tourism Grants, \$25,000 in each fiscal year shall be used for 76736
grants to the Wood County Economic Development Commission. 76737

Of the foregoing appropriation item 195-507, Travel and 76738
Tourism Grants, \$50,000 in each fiscal year shall be used for the 76739
Wright Dunbar Historical Site. 76740

Of the foregoing appropriation item 195-507, Travel and 76741
Tourism Grants, up to \$120,000 in each fiscal year may be used to 76742
support the outdoor dramas "Trumpet in the Land," "Blue Jacket," 76743
and "Tecumseh!". 76744

Of the foregoing appropriation item 195-507, Travel and 76745
Tourism Grants, \$40,000 in each fiscal year shall be used for the 76746
Cincinnati Film Commission and \$40,000 in each fiscal year shall 76747
be used for the Cleveland Film Commission. 76748

Of the foregoing appropriation item 195-507, Travel and 76749
Tourism Grants, \$100,000 in each fiscal year shall be used for the 76750

Cleveland Institute of Art. 76751

Of the foregoing appropriation item 195-507, Travel and 76752
Tourism Grants, up to \$500,000 in each fiscal year shall be used 76753
for grants to The International Center for the Preservation of 76754
Wild Animals. 76755

Of the foregoing appropriation item 195-507, Travel and 76756
Tourism Grants, \$50,000 in each fiscal year shall be used for the 76757
Lake Shore Railway Association, Inc. 76758

Of the foregoing appropriation item 195-507, Travel and 76759
Tourism Grants, \$50,000 in each fiscal year shall be used for the 76760
Ohio River Trails program. 76761

Of the foregoing appropriation item 195-507, Travel and 76762
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the 76763
Ohio Buckeye Junior Hereford Association. 76764

Of the foregoing appropriation item 195-507, Travel and 76765
Tourism Grants, \$100,000 in fiscal year 2006 shall be used for 76766
grants to the NCR U.S. Open. 76767

Section 203.99.33. THIRD FRONTIER RESEARCH & 76768
COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE 76769

The foregoing appropriation item 195-905, Third Frontier 76770
Research & Commercialization General Obligation Debt Service, 76771
shall be used to pay all debt service and related financing costs 76772
during the period from July 1, 2005, to June 30, 2007, on 76773
obligations to be issued for research and development purposes, as 76774
authorized by the Ohio Constitution and implementing statutes. The 76775
Office of the Sinking Fund or the Director of Budget and 76776
Management shall effectuate the required payments by intrastate 76777
transfer voucher. 76778

Section 203.99.36. SUPPORTIVE SERVICES 76779

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.

A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher.

GENERAL REIMBURSEMENT

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.

WORKER GUARANTEE PROGRAM

The foregoing appropriation item 195-668, Worker Guarantee Program, shall be used for the Worker Guarantee Program.

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.

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 76810
program. 76811

State matching funds totaling one-third of a project's cost 76812
shall be provided for each approved project when an employer and 76813
any local workforce development service provider, in conjunction 76814
with the local community, contracts with the Department of 76815
Development to provide services under the program. The employer 76816
and the local community each shall provide matching funds totaling 76817
one-third of a project's cost, and each portion of the matching 76818
funds shall be equal to state funding, which also shall be 76819
one-third of a project's cost. 76820

The state shall count in-kind contributions when determining 76821
a contribution from entities associated with the local community. 76822

The Director of Development, under Chapter 119. of the 76823
Revised Code, shall adopt, and may amend or rescind, rules the 76824
Director finds necessary for the implementation and successful 76825
operation of the Worker Guarantee Program. 76826

Section 203.99.37. TRAINING SERVICES 76827

Of the foregoing appropriation item 195-605, Federal 76828
Projects, \$400,000 in each fiscal year shall be used for grants to 76829
the Ohio Weatherization Training Center, administered by the 76830
Corporation for Ohio Appalachian Development, for training and 76831
technical assistance services. 76832

Section 203.99.39. HEAP WEATHERIZATION 76833

Fifteen per cent of the federal funds received by the state 76834
for the Home Energy Assistance Block Grant shall be deposited in 76835
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 76836
shall be used to provide home weatherization services in the 76837
state. 76838

Of the foregoing appropriation item 195-614, HEAP 76839
Weatherization, \$200,000 in each fiscal year shall be used for 76840
grants to the Ohio Weatherization Training Center, administered by 76841
the Corporation for Ohio Appalachian Development, for training and 76842
technical assistance services. 76843

STATE SPECIAL PROJECTS 76844

The foregoing fund, Fund 4F2, State Special Projects, shall 76845
be used for the deposit of private-sector funds from utility 76846
companies and for the deposit of other miscellaneous state funds. 76847
Private-sector moneys shall be used to (1) pay the expenses of 76848
verifying the income-eligibility of HEAP applicants, (2) market 76849
economic development opportunities in the state, and (3) leverage 76850
additional federal funds. State funds shall be used to match 76851
federal housing grants for the homeless and to market economic 76852
development opportunities in the state. 76853

Section 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN 76854

All repayments from the Minority Development Financing 76855
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 76856
Program shall be deposited in the State Treasury to the credit of 76857
the Minority Business Enterprise Loan Fund (Fund 4W1). 76858

All operating costs of administering the Minority Business 76859
Enterprise Loan Fund shall be paid from the Minority Business 76860
Enterprise Loan Fund (Fund 4WI). 76861

MINORITY BUSINESS BONDING FUND 76862

Notwithstanding Chapters 122., 169., and 175. of the Revised 76863
Code and other provisions of Am. Sub. H.B. 283 of the 123rd 76864
General Assembly, the Director of Development may, upon the 76865
recommendation of the Minority Development Financing Advisory 76866
Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of 76867
unclaimed funds administered by the Director of Commerce and 76868

allocated to the Minority Business Bonding Program under section 76869
169.05 of the Revised Code. The transfer of any cash by the 76870
Director of Budget and Management from the Department of 76871
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 76872
Development's Minority Business Bonding Fund (Fund 449) shall 76873
occur, if requested by the Director of Development, only if such 76874
funds are needed for payment of losses arising from the Minority 76875
Business Bonding Program, and only after proceeds of the initial 76876
transfer of \$2,700,000 by the Controlling Board to the Minority 76877
Business Bonding Program has been used for that purpose. Moneys 76878
transferred by the Director of Budget and Management from the 76879
Department of Commerce for this purpose may be moneys in custodial 76880
funds held by the Treasurer of State. If expenditures are required 76881
for payment of losses arising from the Minority Business Bonding 76882
Program, such expenditures shall be made from appropriation item 76883
195-623, Minority Business Bonding Contingency in the Minority 76884
Business Bonding Fund, and such amounts are appropriated. 76885

Section 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING 76886

The foregoing appropriation item 195-625, Economic 76887
Development Financing Operating, shall be used for the operating 76888
expenses of financial assistance programs authorized under Chapter 76889
166. of the Revised Code and under sections 122.43 and 122.45 of 76890
the Revised Code. 76891

VOLUME CAP ADMINISTRATION 76892

The foregoing appropriation item 195-654, Volume Cap 76893
Administration, shall be used for expenses related to the 76894
administration of the Volume Cap Program. Revenues received by the 76895
Volume Cap Administration Fund (Fund 617) shall consist of 76896
application fees, forfeited deposits, and interest earned from the 76897
custodial account held by the Treasurer of State. 76898

UNIVERSAL SERVICE FUND 76899

The foregoing appropriation item 195-659, Universal Service, 76900
shall be used to provide payments to regulated electric utility 76901
companies for low-income customers enrolled in Percentage of 76902
Income Payment Plan (PIPP) electric accounts, to fund targeted 76903
energy efficiency and customer education services to PIPP 76904
customers, and to cover the department's administrative costs 76905
related to Universal Service Fund Programs. 76906

SHOVEL READY SITES 76907

The foregoing appropriation item 195-678, Shovel Ready Sites, 76908
shall be used to administer the Shovel Ready Sites Program under 76909
section 122.083 of the Revised Code. 76910

ALTERNATIVE FUEL TRANSPORTATION 76911

The foregoing appropriation item 195-679, Alternative Fuel 76912
Transportation, shall be used by the Director of Development to 76913
make grants under the Alternative Fuel Transportation Grant Fund 76914
Program in accordance with section 122.075 of the Revised Code, 76915
and for administrative costs associated with the program. 76916

ENERGY EFFICIENCY REVOLVING LOAN FUND 76917

The foregoing appropriation item 195-660, Energy Efficiency 76918
Loan and Grant, shall be used to provide financial assistance to 76919
customers for eligible energy efficiency projects for residential, 76920
commercial and industrial business, local government, educational 76921
institution, nonprofit, and agriculture customers, and to pay for 76922
the program's administrative costs as provided in the Revised Code 76923
and rules adopted by the Director of Development. 76924

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 76925
THE INDUSTRIAL SITE IMPROVEMENTS FUND 76926

Notwithstanding Chapters 122. and 4928. of the Revised Code 76927
and any other law to the contrary, the Director of Budget and 76928

Management shall transfer \$2,500,000 in cash in fiscal year 2006 76929
and \$2,500,000 in cash in fiscal year 2007 from the Energy 76930
Efficiency Revolving Loan Fund (Fund 5M5) to the Industrial Site 76931
Improvements Fund (Fund 5AR). The transfers are subject to 76932
Controlling Board approval. 76933

Moneys in Fund 5AR, Industrial Site Improvements, shall be 76934
used by the Director of Development to make grants to eligible 76935
counties for the improvement of commercial or industrial areas 76936
within those counties under section 122.951 of the Revised Code. 76937

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 76938
THE RAIL TRANSLOAD FACILITIES FUND 76939

Notwithstanding Chapters 122. and 4928. of the Revised Code 76940
and any other law to the contrary, the Director of Budget and 76941
Management shall transfer \$500,000 in cash in fiscal year 2006 76942
from the Energy Efficiency Revolving Loan Fund (Fund 5M5) in the 76943
Department of Development to the Rail Transload Facilities Fund 76944
(Fund 5CF) in the Department of Transportation. The transfer is 76945
subject to Controlling Board approval. 76946

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 76947
THE ALTERNATIVE FUEL TRANSPORTATION GRANT FUND 76948

Notwithstanding Chapter 4928. of the Revised Code and any 76949
other law to the contrary, the Director of Budget and Management 76950
shall transfer \$150,000 in cash in fiscal year 2006 and \$150,000 76951
in cash in fiscal year 2007 from the Energy Efficiency Revolving 76952
Loan Fund (Fund 5M5) to the Alternative Fuel Transportation Grant 76953
Fund (Fund 5CG). The transfers are subject to Controlling Board 76954
approval. 76955

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS 76956

All payments received by the state pursuant to a series of 76957
settlements with ten brokerage firms reached with the United 76958

States Securities and Exchange Commission, the National
Association of Securities Dealers, the New York Stock Exchange,
the New York Attorney General, and other state regulators
(henceforth referred to as the "Global Analysts Settlement
Agreements"), shall be deposited into the state treasury to the
credit of the Economic Development Contingency Fund (Fund 5Y6),
which is hereby created in the state treasury. The fund shall be
used by the Director of Development to support economic
development projects for which appropriations would not otherwise
be available, and shall be subject to the submission of a request
to the Controlling Board by the Director outlining the planned use
of the funds, and the subsequent approval of the request by the
Controlling Board.

**Section 203.99.46. TRANSFER FROM THE LOW- AND MODERATE-INCOME
HOUSING TRUST FUND TO THE RESIDENTIAL STATE SUPPLEMENT FUND**

Notwithstanding Chapter 175. of the Revised Code and any
other law to the contrary, the Director of Budget and Management
shall transfer \$1,500,000 in cash in fiscal year 2006 and
\$1,500,000 in cash in fiscal year 2007 from the Low- and
Moderate-Income Housing Trust Fund (Fund 646) in the Department of
Development to the Residential State Supplement Fund (Fund 5CH) in
the Department of Mental Health. The transfers are subject to
Controlling Board approval.

Section 203.99.48. FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195-615, Facilities
Establishment (Fund 037), shall be used for the purposes of the
Facilities Establishment Fund under Chapter 166. of the Revised
Code.

Notwithstanding Chapter 166. of the Revised Code, up to
\$1,800,000 in cash each fiscal year may be transferred from the

Facilities Establishment Fund (Fund 037) to the Economic 76989
Development Financing Operating Fund (Fund 451). The transfer is 76990
subject to Controlling Board approval under division (B) of 76991
section 166.03 of the Revised Code. 76992

Notwithstanding Chapter 166. of the Revised Code, up to 76993
\$5,000,000 in cash each fiscal year may be transferred from the 76994
Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites 76995
Fund (Fund 5CA). The transfer is subject to Controlling Board 76996
approval under division (B) of section 166.03 of the Revised Code. 76997

Notwithstanding Chapter 166. of the Revised Code, up to 76998
\$10,950,000 in cash may be transferred during the biennium from 76999
the Facilities Establishment Fund (Fund 037) to the Urban 77000
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 77001
barriers to urban core redevelopment. The Director of Development 77002
shall develop program guidelines for the transfer and release of 77003
funds, including, but not limited to, the completion of all 77004
appropriate environmental assessments before state assistance is 77005
committed to a project. 77006

Notwithstanding Chapter 166. of the Revised Code, up to 77007
\$3,000,000 each fiscal year in cash may be transferred from the 77008
Facilities Establishment Fund (Fund 037) to the Rural Industrial 77009
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 77010
Board approval under section 166.03 of the Revised Code. 77011

FAMILY FARM LOAN PROGRAM 77012

Notwithstanding Chapter 166. of the Revised Code, up to 77013
\$1,000,000 in each fiscal year shall be transferred from moneys in 77014
the Facilities Establishment Fund (Fund 037) to the Family Farm 77015
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 77016
The moneys shall be used for loan guarantees. The transfer is 77017
subject to Controlling Board approval. 77018

Financial assistance from the Family Farm Loan Guarantee Fund 77019

(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 77020
under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the 77021
Revised Code. 77022

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 77023
exist, all outstanding balances, all loan repayments, and any 77024
other outstanding obligations shall revert to the Facilities 77025
Establishment Fund (Fund 037). 77026

RURAL DEVELOPMENT INITIATIVE FUND 77027

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is 77028
entitled to receive moneys from the Facilities Establishment Fund 77029
(Fund 037). The Director of Development may make grants from the 77030
Rural Development Initiative Fund as specified in division (A)(2) 77031
of this section to eligible applicants in Appalachian counties and 77032
in rural counties in the state that are designated as distressed 77033
under section 122.25 of the Revised Code. Preference shall be 77034
given to eligible applicants located in Appalachian counties 77035
designated as distressed by the federal Appalachian Regional 77036
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 77037
cease to exist after June 30, 2007. All moneys remaining in the 77038
Fund after that date shall revert to the Facilities Establishment 77039
Fund (Fund 037). 77040

(2) The Director of Development shall make grants from the 77041
Rural Development Initiative Fund (Fund 5S8) only to eligible 77042
applicants who also qualify for and receive funding under the 77043
Rural Industrial Park Loan Program as specified in sections 122.23 77044
to 122.27 of the Revised Code. Eligible applicants shall use the 77045
grants for the purposes specified in section 122.24 of the Revised 77046
Code. All projects supported by grants from the fund are subject 77047
to Chapter 4115. of the Revised Code as specified in division (E) 77048
of section 166.02 of the Revised Code. The Director shall develop 77049
program guidelines for the transfer and release of funds. The 77050

release of grant moneys to an eligible applicant is subject to 77051
Controlling Board approval. 77052

(B) Notwithstanding Chapter 166. of the Revised Code, the 77053
Director of Budget and Management may transfer up to \$3,000,000 77054
each fiscal year in cash on an as needed basis at the request of 77055
the Director of Development from the Facilities Establishment Fund 77056
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 77057
The transfer is subject to Controlling Board approval under 77058
section 166.03 of the Revised Code. 77059

CAPITAL ACCESS LOAN PROGRAM 77060

The foregoing appropriation item 195-628, Capital Access Loan 77061
Program, shall be used for operating, program, and administrative 77062
expenses of the program. Funds of the Capital Access Loan Program 77063
shall be used to assist participating financial institutions in 77064
making program loans to eligible businesses that face barriers in 77065
accessing working capital and obtaining fixed asset financing. 77066

Notwithstanding Chapter 166. of the Revised Code, the 77067
Director of Budget and Management may transfer up to \$3,000,000 77068
each fiscal year in cash on an as needed basis at the request of 77069
the Director of Development from the Facilities Establishment Fund 77070
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 77071
transfer is subject to Controlling Board approval under section 77072
166.03 of the Revised Code. 77073

INNOVATION OHIO LOAN FUND 77074

The foregoing appropriation item 195-664, Innovation Ohio, 77075
shall be used to provide for innovation Ohio purposes, including 77076
loan guarantees and loans under Chapter 166. and particularly 77077
sections 166.12 to 166.16 of the Revised Code. 77078

RESEARCH AND DEVELOPMENT 77079

The foregoing appropriation item 195-665, Research and 77080

Development, shall be used to provide for research and development 77081
purposes, including loans, under Chapter 166. and particularly 77082
sections 166.17 to 166.21 of the Revised Code. 77083

Section 203.99.51. CLEAN OHIO OPERATING EXPENSES 77084

The foregoing appropriation item 195-663, Clean Ohio 77085
Operating, shall be used by the Department of Development in 77086
administering sections 122.65 to 122.658 of the Revised Code. 77087

Section 203.99.54. UNCLAIMED FUNDS TRANSFER 77088

(A) Notwithstanding division (A) of section 169.05 of the 77089
Revised Code, upon the request of the Director of Budget and 77090
Management, the Director of Commerce, prior to June 30, 2006, 77091
shall transfer to the Job Development Initiatives Fund (Fund 5AD) 77092
up to \$8,000,000 of the unclaimed funds that have been reported by 77093
the holders of unclaimed funds under section 169.05 of the Revised 77094
Code, regardless of the allocation of the unclaimed funds 77095
described under that section. 77096

Notwithstanding division (A) of section 169.05 of the Revised 77097
Code, upon the request of the Director of Budget and Management, 77098
the Director of Commerce, prior to June 30, 2007, shall transfer 77099
to the Job Development Initiatives Fund (Fund 5AD) up to 77100
\$18,000,000 of the unclaimed funds that have been reported by the 77101
holders of unclaimed funds under section 169.05 of the Revised 77102
Code, regardless of the allocation of the unclaimed funds 77103
described under that section. 77104

(B) Notwithstanding division (A) of section 169.05 of the 77105
Revised Code, upon the request of the Director of Budget and 77106
Management, the Director of Commerce, prior to June 30, 2006, 77107
shall transfer to the State Special Projects Fund (Fund 4F2) up to 77108
\$5,000,000 of the unclaimed funds that have been reported by the 77109
holders of unclaimed funds under section 169.05 of the Revised 77110

Code, regardless of the allocation of the unclaimed funds 77111
 described under that section. 77112

Notwithstanding division (A) of section 169.05 of the Revised 77113
 Code, upon the request of the Director of Budget and Management, 77114
 the Director of Commerce, prior to June 30, 2007, shall transfer 77115
 to the State Special Projects Fund (Fund 4F2) up to \$5,000,000 of 77116
 the unclaimed funds that have been reported by the holders of 77117
 unclaimed funds under section 169.05 of the Revised Code, 77118
 regardless of the allocation of the unclaimed funds described 77119
 under that section. 77120

Section 206.03. OBD OHIO BOARD OF DIETETICS 77121

General Services Fund Group				77122
4K9 860-609 Operating Expenses	\$	332,495	\$ 0	77123
TOTAL GSF General Services Fund				77124
Group	\$	332,495	\$ 0	77125
TOTAL ALL BUDGET FUND GROUPS	\$	332,495	\$ 0	77126

Section 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND 77128
 CONFLICT MANAGEMENT 77129

General Revenue Fund				77130
GRF 145-401 Commission on Dispute	\$	470,000	\$ 470,000	77131
Resolution/Management				
TOTAL GRF General Revenue Fund	\$	470,000	\$ 470,000	77132
General Services Fund Group				77133
4B6 145-601 Gifts and Grants	\$	140,000	\$ 140,000	77134
TOTAL GSF General Services Fund	\$	140,000	\$ 140,000	77135
Group				
Federal Special Revenue Fund Group				77136
3S6 145-602 Dispute Resolution:	\$	140,000	\$ 140,000	77137
Federal				

TOTAL FED Federal Special Revenue	\$	140,000	\$	140,000	77138
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	750,000	\$	750,000	77139

Section 206.09. EDU DEPARTMENT OF EDUCATION 77141

General Revenue Fund					77142
GRF 200-100 Personal Services	\$	9,880,406	\$	10,880,655	77143
GRF 200-320 Maintenance and Equipment	\$	4,344,235	\$	4,344,235	77144
GRF 200-408 Early Childhood Education	\$	19,002,195	\$	19,002,195	77145
GRF 200-410 Educator Training	\$	23,423,057	\$	23,923,057	77146
GRF 200-416 Career-Technical Education Match	\$	2,233,195	\$	2,233,195	77147
GRF 200-420 Computer/Application/ Network Development	\$	5,361,525	\$	5,361,525	77148
GRF 200-421 Alternative Education Programs	\$	13,707,665	\$	13,557,665	77149
GRF 200-422 School Management Assistance	\$	2,683,208	\$	2,710,572	77150
GRF 200-424 Policy Analysis	\$	556,687	\$	556,687	77151
GRF 200-425 Tech Prep Consortia Support	\$	2,069,217	\$	2,069,217	77152
GRF 200-426 Ohio Educational Computer Network	\$	30,446,197	\$	30,446,197	77153
GRF 200-427 Academic Standards	\$	10,822,753	\$	10,894,181	77154
GRF 200-431 School Improvement Initiatives	\$	20,513,649	\$	23,842,828	77155
GRF 200-433 Reading/Writing Improvement-Professional Development	\$	16,165,000	\$	16,165,000	77156
GRF 200-437 Student Assessment	\$	54,445,234	\$	60,011,935	77157
GRF 200-439 Accountability/Report	\$	3,878,850	\$	6,457,290	77158

Cards						
GRF 200-442	Child Care Licensing	\$	1,302,495	\$	1,302,495	77159
GRF 200-445	OhioReads Volunteer	\$	3,905,000	\$	3,905,000	77160
Support						
GRF 200-446	Education Management	\$	15,674,805	\$	15,674,805	77161
Information System						
GRF 200-447	GED Testing	\$	1,544,360	\$	1,544,360	77162
GRF 200-448	Educator Preparation	\$	1,651,000	\$	1,651,000	77163
GRF 200-455	Community Schools	\$	2,942,094	\$	2,942,094	77164
GRF 200-502	Pupil Transportation	\$	412,330,728	\$	420,577,343	77165
GRF 200-503	Bus Purchase Allowance	\$	8,600,000	\$	12,500,000	77166
GRF 200-505	School Lunch Match	\$	8,998,025	\$	8,998,025	77167
GRF 200-509	Adult Literacy	\$	8,669,738	\$	8,669,738	77168
Education						
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356	77169
GRF 200-514	Postsecondary Adult	\$	19,481,875	\$	19,481,875	77170
Career-Technical						
Education						
GRF 200-521	Gifted Pupil Program	\$	46,910,068	\$	47,157,293	77171
GRF 200-532	Nonpublic	\$	56,762,916	\$	58,068,463	77172
Administrative Cost						
Reimbursement						
GRF 200-540	Special Education	\$	133,379,606	\$	134,640,125	77173
Enhancements						
GRF 200-545	Career-Technical	\$	10,169,442	\$	9,225,569	77174
Education Enhancements						
GRF 200-550	Foundation Funding	\$	5,587,820,663	\$	5,698,271,366	77175
GRF 200-558	Emergency Loan	\$	1,388,164	\$	651,404	77176
Interest Subsidy						
GRF 200-566	Reading/Writing	\$	12,062,336	\$	12,062,336	77177
Improvement-Classroom						
Grants						
GRF 200-578	Safe and Supportive	\$	1,218,555	\$	1,218,555	77178

		Schools				
GRF	200-901	Property Tax	\$	764,626,987	\$	728,793,318 77179
		Allocation - Education				
GRF	200-906	Tangible Tax Exemption	\$	42,830,487	\$	32,122,865 77180
		- Education				
TOTAL GRF		General Revenue Fund	\$	7,489,705,773	\$	7,579,817,819 77181
		General Services Fund Group				77182
138	200-606	Computer	\$	7,600,091	\$	7,600,091 77183
		Services-Operational				
		Support				
4D1	200-602	Ohio	\$	832,000	\$	832,000 77184
		Prevention/Education				
		Resource Center				
4L2	200-681	Teacher Certification	\$	5,497,158	\$	5,628,332 77185
		and Licensure				
452	200-638	Miscellaneous	\$	400,000	\$	400,000 77186
		Educational Services				
5H3	200-687	School District	\$	18,000,000	\$	18,000,000 77187
		Solvency Assistance				
596	200-656	Ohio Career	\$	529,761	\$	529,761 77188
		Information System				
TOTAL GSF		General Services				77189
		Fund Group	\$	32,859,010	\$	32,990,184 77190
		Federal Special Revenue Fund Group				77191
3AF	200-603	Schools Medicaid	\$	1,000,000	\$	1,000,000 77192
		Administrative Claims				
3C5	200-661	Early Childhood	\$	23,874,338	\$	23,874,338 77193
		Education				
3D1	200-664	Drug Free Schools	\$	13,347,966	\$	13,347,966 77194
3D2	200-667	Honors Scholarship	\$	5,812,903	\$	5,833,965 77195
		Program				
3H9	200-605	Head Start	\$	275,000	\$	275,000 77196

		Collaboration Project					
3L6	200-617	Federal School Lunch	\$	220,256,132	\$	227,583,653	77197
3L7	200-618	Federal School Breakfast	\$	56,382,851	\$	58,405,608	77198
3L8	200-619	Child/Adult Food Programs	\$	66,590,622	\$	67,915,843	77199
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	77200
3M0	200-623	ESEA Title 1A	\$	440,260,178	\$	461,026,070	77201
3M1	200-678	Innovative Education	\$	11,800,000	\$	11,800,000	77202
3M2	200-680	Individuals with Disabilities Education Act	\$	513,058,569	\$	605,581,547	77203
3S2	200-641	Education Technology	\$	20,800,000	\$	20,800,000	77204
3T4	200-613	Public Charter Schools	\$	22,000,000	\$	22,000,000	77205
3U2	200-662	Teacher Quality Enhancement Grants	\$	795,280	\$	795,280	77206
3X5	200-684	School Renovation/IDEA	\$	2,200,000	\$	0	77207
3Y2	200-688	21st Century Community Learning Centers	\$	30,681,554	\$	30,681,554	77208
3Y4	200-632	Reading First	\$	50,775,637	\$	31,215,798	77209
3Y5	200-634	Community Service Grants	\$	1,000,000	\$	0	77210
3Y6	200-635	Improving Teacher Quality	\$	107,000,000	\$	107,000,000	77211
3Y7	200-689	English Language Acquisition	\$	8,500,000	\$	9,000,000	77212
3Y8	200-639	Rural and Low Income	\$	1,700,000	\$	1,700,000	77213
3Z2	200-690	State Assessments	\$	12,681,031	\$	12,883,799	77214
3Z3	200-645	Consolidated USDE Administration	\$	9,200,000	\$	9,200,000	77215
309	200-601	Educationally Disadvantaged	\$	19,658,846	\$	19,658,846	77216

366	200-604	Adult Basic Education	\$	18,500,000	\$	18,500,000	77217
367	200-607	School Food Services	\$	11,383,637	\$	11,666,732	77218
368	200-614	Veterans' Training	\$	672,961	\$	691,130	77219
369	200-616	Career-Technical Education Federal Enhancement	\$	6,500,000	\$	6,500,000	77220
370	200-624	Education of Exceptional Children	\$	2,386,610	\$	2,386,610	77221
371	200-631	Immigrant Education Opportunities	\$	400,000	\$	400,000	77222
374	200-647	Troops to Teachers	\$	1,600,000	\$	0	77223
378	200-660	Learn and Serve	\$	1,200,000	\$	1,200,000	77224
TOTAL FED Federal Special Revenue Fund Group							77225
							\$ 1,730,323,816 \$ 1,830,953,440 77226
State Special Revenue Fund Group							77227
4R7	200-695	Indirect Operational Support	\$	5,382,864	\$	5,449,748	77228
4V7	200-633	Interagency Operational Support	\$	500,000	\$	500,000	77229
454	200-610	Guidance and Testing	\$	400,000	\$	400,000	77230
455	200-608	Commodity Foods	\$	24,000,000	\$	24,000,000	77231
5BB	200-696	State Action for Education Leadership	\$	1,200,000	\$	1,200,000	77232
5BJ	200-626	Half-Mill Maintenance Equalization	\$	0	\$	10,700,000	77233
5U2	200-685	National Education Statistics	\$	300,000	\$	300,000	77234
5W2	200-663	Early Learning Initiative	\$	96,580,000	\$	115,456,000	77235
598	200-659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	77236
620	200-615	Educational Improvement Grants	\$	1,000,000	\$	1,000,000	77237

TOTAL SSR State Special Revenue				77238	
Fund Group	\$	130,691,774	\$	160,334,658	77239
Lottery Profits Education Fund Group				77240	
017 200-612 Foundation Funding	\$	606,208,300	\$	606,296,800	77241
017 200-682 Lease Rental Payment	\$	31,691,700	\$	31,603,200	77242
Reimbursement					
TOTAL LPE Lottery Profits				77243	
Education Fund Group	\$	637,900,000	\$	637,900,000	77244
Revenue Distribution Fund Group				77245	
047 200-909 School District	\$	38,810,000	\$	291,010,000	77246
Property Tax					
Replacement-Business					
053 200-900 School District	\$	116,647,522	\$	101,647,522	77247
Property Tax					
Replacement-Utility					
TOTAL RDF Revenue Distribution				77248	
Fund Group	\$	155,457,522	\$	392,657,522	77249
TOTAL ALL BUDGET FUND GROUPS	\$	1,176,937,895	\$	10,634,653,623	77250

Section 206.09.03. MAINTENANCE AND EQUIPMENT 77252

Of the foregoing appropriation item 200-320, Maintenance and 77253
Equipment, up to \$25,000 may be expended in each fiscal year for 77254
State Board of Education out-of-state travel. 77255

Section 206.09.06. EARLY CHILDHOOD EDUCATION 77256

The Department of Education shall distribute the foregoing 77257
appropriation item 200-408, Early Childhood Education, to pay the 77258
costs of comprehensive early childhood education programs. As used 77259
in this section, "provider" means a city, local, exempted village, 77260
or joint vocational school district, an educational service 77261
center, or any community-based entity licensed under sections 77262
3301.52 to 3301.59 or Chapter 5104. of the Revised Code with 77263

experience educating children.

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(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.

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(B) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines for school readiness.

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(C) For purposes of this section, "eligible child" means a child who is at least three years of age, is not of the age to be eligible for kindergarten, and whose family earns not more than 200 per cent of the federal poverty guidelines.

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(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2006, the Department shall distribute funds first to recipients of funds for public preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 125th General Assembly in the previous fiscal year and the balance to new providers of early childhood education programs under this section. After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2007, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new providers. Awards under this section shall be distributed on a per-pupil basis, which the Department may adjust so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services, as defined by

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the Department, reported on the first day of December or the first
business day following that date equals the amount allocated under
division (A) of this section. The Department may increase the
per-pupil amount by a reasonable percentage for inflation, to be
determined by the Department.

The Department may reallocate unobligated or unspent money to
participating providers for purposes of program expansion,
improvement, or special projects to promote quality and
innovation.

(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.

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.

(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. 77326
The approved corrective action plan shall be signed by the chief 77327
executive officer and the executive of the official governing body 77328
of the provider. The corrective action plan shall include a 77329
schedule for monitoring by the Department. Such monitoring may 77330
include monthly reports, inspections, a timeline for correction of 77331
deficiencies, and technical assistance to be provided by the 77332
Department or obtained by the early childhood education program. 77333
The Department may withhold funding pending corrective action. If 77334
an early childhood education program fails to satisfactorily 77335
complete a corrective action plan, the Department may deny 77336
expansion funding to the program or withdraw all or part of the 77337
funding to the program and establish a new provider through a 77338
competitive bidding process established by the Department. 77339

(G) Each early childhood education program shall do all of 77340
the following: 77341

(1) Meet teacher qualification requirements prescribed by 77342
section 3301.311 of the Revised Code; 77343

(2) Align curriculum to the early learning program guidelines 77344
for school readiness; 77345

(3) Meet any assessment requirements prescribed by section 77346
3301.0715 of the Revised Code that are applicable to the program; 77347

(4) Require teachers, including teachers enrolled and working 77348
to obtain a degree pursuant to section 3301.311 of the Revised 77349
Code, to attend a minimum of twenty hours per year of professional 77350
development as prescribed by the Department regarding the 77351
implementation of content standards and assessments; 77352

(5) Document and report child progress in meeting the early 77353
learning program guidelines for school readiness. 77354

(H) Each provider shall develop a sliding fee scale based on 77355

family incomes and shall charge families who earn more than the 77356
federal poverty guidelines for the early childhood education 77357
program. 77358

(I) If an early childhood education program voluntarily 77359
waives its right for funding, or has its funding eliminated for 77360
not meeting financial standards or the early learning program 77361
guidelines for school readiness, the provider shall transfer 77362
control of title to property, equipment, and remaining supplies 77363
obtained through the program to providers designated by the 77364
Department and return any unexpended funds to the Department along 77365
with any reports prescribed by the Department. The funding made 77366
available from a program that waives its right for funding or has 77367
its funding eliminated or reduced may be used by the Department 77368
for new grant awards or expansion grants. The Department may award 77369
new grants or expansion grants to eligible providers who apply. 77370
The eligible providers who apply must do so in accordance with the 77371
competitive bidding process established by the Department. 77372

(J) As used in this section, "early learning program 77373
guidelines for school readiness" means the guidelines established 77374
by the Department pursuant to division (C)(3) of Section 206.09.54 77375
of this act. 77376

Section 206.09.09. EDUCATOR TRAINING 77377

The foregoing appropriation item 200-410, Educator Training, 77378
shall be used to fund professional development programs in Ohio. 77379
The Department of Education shall, when possible, incorporate 77380
cultural competency as a component of professional development and 77381
actively promote the development of cultural competency in the 77382
operation of its professional development programs. As used in 77383
this section, "cultural competency" has the meaning specified by 77384
the Educator Standards Board under section 3319.61 of the Revised 77385
Code. 77386

Of the foregoing appropriation item 200-410, Educator 77387
Training, up to \$7,850,000 in fiscal year 2006 and up to 77388
\$8,250,000 in fiscal year 2007 shall be used by the Department of 77389
Education to provide grants to pay \$2,000 of the application fee 77390
in order to assist teachers from public and chartered nonpublic 77391
schools applying for the first time to the National Board for 77392
Professional Teaching Standards for professional teaching 77393
certificates or licenses that the board offers. This set aside 77394
shall also be used to recognize and reward teachers who become 77395
certified by the National Board for Professional Teaching 77396
Standards under section 3319.55 of the Revised Code. Up to 77397
\$300,000 in each fiscal year of this set aside may be used by the 77398
Department to pay for costs associated with activities to support 77399
candidates through the application and certification process. 77400

These moneys shall be used to pay up to the first 400 77401
applications in each fiscal year received by the Department. 77402

Of the foregoing appropriation item 200-410, Educator 77403
Training, up to \$9,515,817 in each fiscal year shall be allocated 77404
for entry year programs. These funds shall be used to support 77405
mentoring services and performance assessments of beginning 77406
teachers in school districts and chartered nonpublic schools. 77407

Of the foregoing appropriation item 200-410, Educator 77408
Training, up to \$200,000 in each fiscal year shall be used to 77409
provide technical assistance and grants for districts to develop 77410
local knowledge/skills-based compensation systems (Teacher 77411
Advancement Program). Each district receiving grants shall issue 77412
an annual report to the Department of Education detailing the use 77413
of the funds and the impact of the system developed by the 77414
district. 77415

Of the foregoing appropriation item 200-410, Educator 77416
Training, up to \$350,000 in each fiscal year shall be used for 77417

training and professional development of school administrators, 77418
school treasurers, and school business officials. 77419

Of the foregoing appropriation item 200-410, Educator 77420
Training, up to \$100,000 in fiscal year 2007 shall be used by the 77421
Department of Education to develop a supply and demand report that 77422
describes the availability of quality educators and critical 77423
educator shortage areas in Ohio. 77424

Of the foregoing appropriation item 200-410, Educator 77425
Training, up to \$885,740 in each fiscal year shall be used for 77426
educator recruitment programs targeting shortage areas, including 77427
recruiting highly qualified minority candidates into teaching and 77428
recruiting prospective mathematics and science teachers. The funds 77429
also may be used to provide an alternative route to licensure for 77430
principals and other administrators. 77431

Of the foregoing appropriation item 200-410, Educator 77432
Training, up to \$187,500 in each fiscal year shall be used by the 77433
Department of Education to identify hard-to-staff schools and to 77434
provide incentives for highly qualified teachers to teach in these 77435
schools. Stipends shall be provided to teachers with at least 77436
three years of experience who teach in the areas of special 77437
education or middle or high school mathematics or science. 77438

Of the foregoing appropriation item 200-410, Educator 77439
Training, up to \$63,000 in each fiscal year shall be used to 77440
support the Ohio University Leadership Program. 77441

Of the foregoing appropriation item 200-410, Educator 77442
Training, up to \$4,371,000 in each fiscal year shall be allocated 77443
by the Department of Education on a per pupil basis, to school 77444
districts in academic emergency or with a three-year average 77445
graduation rate of not more than seventy-five per cent. As used in 77446
this section, "three-year average" and "graduation rate" have the 77447
meanings specified in section 3302.01 of the Revised Code. These 77448

funds shall be used by the districts to provide an equivalent of 77449
five days of ongoing embedded professional development for 77450
classroom teachers who provide instruction in the subject areas of 77451
reading, writing, mathematics, science, or social studies to 77452
students enrolled in the ninth or tenth grade. This professional 77453
development shall focus on developing subject competency, 77454
developing cultural competency, developing skills for analyzing 77455
test data, and developing data-based intervention strategies to 77456
prepare students below grade level to pass the Ohio Graduation 77457
Test. Districts shall submit a research-based, professional 77458
development plan for five days of embedded professional 77459
development to the Department of Education prior to receiving 77460
funds. The plan shall detail how ninth and tenth grade teachers 77461
will learn and implement classroom strategies for students to 77462
reach state standards in mathematics, reading, writing, social 77463
studies, and science. 77464

Section 206.09.10. CAREER-TECHNICAL EDUCATION MATCH 77465

The foregoing appropriation item 200-416, Career-Technical 77466
Education Match, shall be used by the Department of Education to 77467
provide vocational administration matching funds under 20 U.S.C. 77468
2311. 77469

Section 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT 77470

The foregoing appropriation item 200-420, 77471
Computer/Application/Network Development, shall be used to support 77472
the development and implementation of information technology 77473
solutions designed to improve the performance and services of the 77474
Department of Education. Funds may be used for personnel, 77475
maintenance, and equipment costs related to the development and 77476
implementation of these technical system projects. Implementation 77477
of these systems shall allow the Department to provide greater 77478

levels of assistance to school districts and to provide more 77479
timely information to the public, including school districts, 77480
administrators, and legislators. 77481

ALTERNATIVE EDUCATION PROGRAMS 77482

There is hereby created the Alternative Education Advisory 77483
Council, which shall consist of one representative from each of 77484
the following agencies: the Ohio Department of Education; the 77485
Department of Youth Services; the Ohio Department of Alcohol and 77486
Drug Addiction Services; the Department of Mental Health; the 77487
Office of the Governor or, at the Governor's discretion, the 77488
Office of the Lieutenant Governor; the Office of the Attorney 77489
General; and the Office of the Auditor of State. 77490

Of the foregoing appropriation item 200-421, Alternative 77491
Education Programs, up to \$6,227,310 in each fiscal year shall be 77492
used for the renewal of successful implementation grants and for 77493
competitive matching grants to the 21 urban school districts as 77494
defined in division (O) of section 3317.02 of the Revised Code as 77495
it existed prior to July 1, 1998, and up to \$6,408,074 in each 77496
fiscal year shall be used for the renewal of successful 77497
implementation grants and for competitive matching grants to rural 77498
and suburban school districts for alternative educational programs 77499
for existing and new at-risk and delinquent youth. Programs shall 77500
be focused on youth in one or more of the following categories: 77501
those who have been expelled or suspended, those who have dropped 77502
out of school or who are at risk of dropping out of school, those 77503
who are habitually truant or disruptive, or those on probation or 77504
on parole from a Department of Youth Services facility. Grants 77505
shall be awarded according to the criteria established by the 77506
Alternative Education Advisory Council in 1999. Grants shall be 77507
awarded only to programs in which the grant will not serve as the 77508
program's primary source of funding. These grants shall be 77509
administered by the Department of Education. 77510

The Department of Education may waive compliance with any 77511
minimum education standard established under section 3301.07 of 77512
the Revised Code for any alternative school that receives a grant 77513
under this section on the grounds that the waiver will enable the 77514
program to more effectively educate students enrolled in the 77515
alternative school. 77516

Of the foregoing appropriation item 200-421, Alternative 77517
Education Programs, up to \$422,281 in each fiscal year may be used 77518
for program administration, monitoring, technical assistance, 77519
support, research, and evaluation. Any unexpended balance may be 77520
used to provide additional matching grants to urban, suburban, or 77521
rural school districts as outlined above. 77522

Of the foregoing appropriation item 200-421, Alternative 77523
Education Programs, up to \$475,000 in fiscal year 2006 and up 77524
\$325,000 in fiscal year 2007 may be used by the Department of 77525
Education to administer the Educational Choice Scholarship Pilot 77526
Program established under section 3310.02 of the Revised Code. 77527

Of the foregoing appropriation item 200-421, Alternative 77528
Education Programs, \$75,000 in each fiscal year shall be used to 77529
support the Toledo Tech Academy. 77530

Of the foregoing appropriation item 200-421, Alternative 77531
Education Programs, \$100,000 in each fiscal year shall be used for 77532
the Youth Opportunities United, Inc. 77533

SCHOOL MANAGEMENT ASSISTANCE 77534

Of the foregoing appropriation item 200-422, School 77535
Management Assistance, up to \$1,315,000 in each fiscal year shall 77536
be used by the Auditor of State in consultation with the 77537
Department of Education for expenses incurred in the Auditor of 77538
State's role relating to fiscal caution, fiscal watch, and fiscal 77539
emergency activities as defined in Chapter 3316. of the Revised 77540
Code and may also be used to conduct performance audits consistent 77541

with the recommendations of the Governor's Blue Ribbon Task Force 77542
on Financing Student Success, with priority given to districts in 77543
fiscal distress. Expenses include duties related to the completion 77544
of performance audits for school districts that the Superintendent 77545
of Public Instruction determines are employing fiscal practices or 77546
experiencing budgetary conditions that could produce a state of 77547
fiscal watch or fiscal emergency. 77548

The remainder of foregoing appropriation item 200-422, School 77549
Management Assistance, shall be used by the Department of 77550
Education to provide fiscal technical assistance and inservice 77551
education for school district management personnel and to 77552
administer, monitor, and implement the fiscal watch and fiscal 77553
emergency provisions under Chapter 3316. of the Revised Code. 77554

POLICY ANALYSIS 77555

The foregoing appropriation item 200-424, Policy Analysis, 77556
shall be used by the Department of Education to support a system 77557
of administrative, statistical, and legislative education 77558
information to be used for policy analysis. Staff supported by 77559
this appropriation shall administer the development of reports, 77560
analyses, and briefings to inform education policymakers of 77561
current trends in education practice, efficient and effective use 77562
of resources, and evaluation of programs to improve education 77563
results. The database shall be kept current at all times. These 77564
research efforts shall be used to supply information and analysis 77565
of data to the General Assembly and other state policymakers, 77566
including the Office of Budget and Management and the Legislative 77567
Service Commission. 77568

The Department of Education may use funding from this 77569
appropriation item to purchase or contract for the development of 77570
software systems or contract for policy studies that will assist 77571
in the provision and analysis of policy-related information. 77572

Funding from this appropriation item also may be used to monitor
and enhance quality assurance for research-based policy analysis
and program evaluation to enhance the effective use of education
information to inform education policymakers.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200-425, Tech Prep Consortia
Support, shall be used by the Department of Education to support
state-level activities designed to support, promote, and expand
tech prep programs. Use of these funds shall include, but not be
limited to, administration of grants, program evaluation,
professional development, curriculum development, assessment
development, program promotion, communications, and statewide
coordination of tech prep consortia.

OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200-426, Ohio Educational
Computer Network, shall be used by the Department of Education to
maintain a system of information technology throughout Ohio and to
provide technical assistance for such a system in support of the
State Education Technology Plan under section 3301.07 of the
Revised Code.

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 77604
city, local, exempted village, or joint vocational school 77605
district, any community school established under Chapter 3314. of 77606
the Revised Code, any educational service center building used for 77607
instructional purposes, the Ohio School for the Deaf and the Ohio 77608
School for the Blind, or high schools chartered by the Ohio 77609
Department of Youth Services and high schools operated by Ohio 77610
Department of Rehabilitation and Corrections' Ohio Central School 77611
System. 77612

Of the foregoing appropriation item 200-426, Ohio Educational 77613
Computer Network, up to \$1,700,000 in each fiscal year shall be 77614
used for the Union Catalog and InfOhio Network. 77615

Of the foregoing appropriation item 200-426, Ohio Educational 77616
Computer Network, up to \$8,338,468 in each fiscal year shall be 77617
used, through a formula and guidelines devised by the department, 77618
to subsidize the activities of designated data acquisition sites, 77619
as defined by State Board of Education rules, to provide school 77620
districts and chartered nonpublic schools with computer-based 77621
student and teacher instructional and administrative information 77622
services, including approved computerized financial accounting, 77623
and to ensure the effective operation of local automated 77624
administrative and instructional systems. 77625

Of the foregoing appropriation item 200-426, Ohio Educational 77626
Computer Network, up to \$769,223 in each fiscal year shall be used 77627
for the INFOhio Network to support the provision of electronic 77628
resources with priority given to resources that support the 77629
teaching of state academic content standards to all public 77630
schools. Consideration shall be given by the Department of 77631
Education to coordinating the allocation of these moneys with the 77632
efforts of Libraries Connect Ohio, whose members include OhioLINK, 77633
the Ohio Public Information Network, and the State Library of 77634
Ohio. 77635

The remainder of appropriation item 200-426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and data acquisition sites may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

ACADEMIC STANDARDS

Of the foregoing appropriation item 200-427, Academic Standards, up to \$747,912 in each fiscal year shall be used to provide funds to school districts that have one or more teachers participating in the teachers-on-loan program.

Of the foregoing appropriation item 200-427, Academic Standards, \$150,000 in each fiscal year shall be used by the Department in combination with funding earmarked for this purpose in the Board of Regents' budget under appropriation item 235-321, Operating Expenses. Such funding shall be used to support Ohio's Partnership for Continued Learning at the direction of the Office of the Governor. Ohio's Partnership for Continued Learning replaces and broadens the former Joint Council of the Department of Education and the Board of Regents. The Partnership shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Governor, or the Governor's designee, shall serve as the chairperson.

Of the foregoing appropriation item 200-427, Academic Standards, \$500,000 in each fiscal year shall be used for Project Lead the Way leadership and management oversight and initial and continuing support of Project Lead the Way workforce development programs in participating school districts. Project Lead the Way is a program that supports students interested in pursuing engineering professions and stimulates growth of career pathways that meet business and industry workforce needs.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$2,600,000 in each fiscal year shall be used for intensive teacher professional development institutes that focus on classroom implementation of the mathematics standards.

Of the foregoing appropriation item 200-427, Academic Standards, \$200,000 in each fiscal year may be used to support the Ohio Resource Center for Math and Science.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$282,000 in each fiscal year shall be used for the JASON Expedition project that provides statewide access to JASON Expedition content. Funds shall be used to provide professional development training for teachers participating in the project, statewide management, and a seventy-five per cent subsidy for statewide licensing of JASON Expedition content with priority given to content aligned with state academic content standards for approximately 90,000 middle school students statewide.

The remainder of appropriation item 200-427, Academic Standards, shall be used by the Department of Education to develop and communicate to school districts academic content standards and curriculum models.

Section 206.09.15. SCHOOL IMPROVEMENT INITIATIVES

Of the foregoing appropriation item 200-431, School 77697
Improvement Initiatives, \$300,000 in fiscal year 2006 and \$450,000 77698
in fiscal year 2007 shall be used for Ohio's Rural Appalachian 77699
Leadership Development Initiative. 77700

Of the foregoing appropriation item 200-431, School 77701
Improvement Initiatives, up to \$601,165 in each fiscal year shall 77702
be used by the Department of Education to contract with 77703
educational media centers to provide Ohio public schools with 77704
instructional resources and services with priority given to 77705
resources and services aligned with state academic content 77706
standards. 77707

Of the foregoing appropriation item 200-431, School 77708
Improvement Initiatives, up to \$13,672,949 in fiscal year 2006 and 77709
\$13,672,678 in fiscal year 2007 shall be used to provide technical 77710
assistance to school districts that are declared to be in a state 77711
of academic watch or academic emergency under section 3302.03 of 77712
the Revised Code, to provide support to districts in the 77713
development and implementation of their continuous improvement 77714
plans as required in section 3302.04 of the Revised Code, to 77715
support a statewide comprehensive system of field relations that 77716
support local educators' abilities to foster academic achievement 77717
in the students they serve, and to provide technical assistance 77718
and support in accordance with Title I of the "No Child Left 77719
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field 77720
relations system shall include training that assists educators, 77721
school leadership, and technical assistance providers in 77722
understanding and implementing standards-based education, data 77723
analysis, and development of assessment systems for quality 77724
instruction. 77725

Of the foregoing appropriation item 200-431, School 77726
Improvement Initiatives, up to \$315,000 in each fiscal year shall 77727
be used to reduce the dropout rate by addressing the academic and 77728

social problems of inner-city students through Project GRAD. 77729

Of the foregoing appropriation item 200-431, School 77730
Improvement Initiatives, \$1,574,535 in fiscal year 2006 and 77731
\$2,753,985 in fiscal year 2007 shall be used in conjunction with 77732
funding provided in the Board of Regents' budget under 77733
appropriation item 235-434, College Readiness and Access, to 77734
create early college high schools, which are small, autonomous 77735
schools that blend high school and college into a coherent 77736
educational program. 77737

Of the foregoing appropriation item 200-431, School 77738
Improvement Initiatives, up to \$2,935,000 in fiscal year 2006 and 77739
up to \$4,935,000 in fiscal year 2007 shall be used in partnership 77740
with nonprofit groups with expertise in converting existing large 77741
urban high schools into small, personalized high schools. 77742
Districts eligible for such funding include the Urban 21 high 77743
schools, as defined in division (O) of section 3317.02 of the 77744
Revised Code as it existed prior to July 1, 1998, with priority 77745
given to those without other sources of funding for this 77746
initiative. 77747

Of the foregoing appropriation item 200-431, School 77748
Improvement Initiatives, \$50,000 in each fiscal year shall be used 77749
to support the student scholarship fund for the health education 77750
program developed and delivered by Discover Health! 77751

Of the foregoing appropriation item 200-431, School 77752
Improvement Initiatives, up to \$65,000 in each fiscal year shall 77753
be provided to Southern State Community College for the Pilot 77754
Post-Secondary Enrollment Options Program with Miami Trace High 77755
School. 77756

Of the foregoing appropriation item 200-431, School 77757
Improvement Initiatives, \$1,000,000 in each fiscal year shall be 77758
used to support Jobs for Ohio Graduates (JOG). The Department of 77759

Education shall require a two-to-one match of private funding to state funding before releasing these funds to JOG. 77760
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READING/WRITING IMPROVEMENT-PROFESSIONAL DEVELOPMENT 77762

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$9,790,000 in each fiscal year shall be used for educator training in literacy for classroom teachers, administrators, and literacy specialists. 77763
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Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$5,000,000 in each fiscal year shall be used to support literacy professional development partnerships between the Department of Education, higher education institutions, literacy networks, and school districts. 77767
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Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$900,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds from this set-aside also may be used to conduct evaluations of the impact and effectiveness of Reading Recovery and other reading improvement programs. 77773
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Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$250,000 in each fiscal year shall be used for the Waterford Early Reading Program. 77782
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The remainder of appropriation item 200-433, Reading/Writing Improvement-Professional Development, shall be used by the Department of Education to provide administrative support of literacy professional development programs. 77785
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STUDENT ASSESSMENT 77789

The foregoing appropriation item 200-437, Student Assessment, 77790
shall be used to develop, field test, print, distribute, score, 77791
report results, and support other associated costs for the tests 77792
required under sections 3301.0710 and 3301.0711 of the Revised 77793
Code and for similar purposes as required by section 3301.27 of 77794
the Revised Code. 77795

ACCOUNTABILITY/REPORT CARDS 77796

Of the foregoing appropriation item 200-439, 77797
Accountability/Report Cards, up to \$200,100 in fiscal year 2006 77798
and up to \$2,778,540 in fiscal year 2007 shall be used by the 77799
Department of Education to incorporate a statewide pilot 77800
value-added progress dimension into performance ratings for school 77801
districts and to train regional specialists. This funding shall be 77802
used in consultation with a credible nonprofit organization with 77803
expertise in value-added progress dimensions. 77804

The remainder of the appropriation item 200-439, 77805
Accountability/Report Cards, shall be used for the development of 77806
an accountability system that includes the preparation and 77807
distribution of school report cards under section 3302.03 of the 77808
Revised Code. 77809

CHILD CARE LICENSING 77810

The foregoing appropriation item 200-442, Child Care 77811
Licensing, shall be used by the Department of Education to license 77812
and to inspect preschool and school-age child care programs under 77813
sections 3301.52 to 3301.59 of the Revised Code. 77814

OHIOREADS VOLUNTEER SUPPORT 77815

The foregoing appropriation item 200-445, OhioReads Volunteer 77816
Support, may be allocated by the Department of Education for 77817
volunteer coordinators in public school buildings, for background 77818
checks for volunteers, to evaluate programs, and to develop, 77819

implement, and support literacy improvement activities and 77820
interventions for students in grades kindergarten through twelve. 77821

Section 206.09.18. EDUCATION MANAGEMENT INFORMATION SYSTEM 77822

The foregoing appropriation item 200-446, Education 77823
Management Information System, shall be used by the Department of 77824
Education to improve the Education Management Information System 77825
(EMIS). 77826

Of the foregoing appropriation item 200-446, Education 77827
Management Information System, up to \$1,295,857 in each fiscal 77828
year shall be distributed to designated data acquisition sites for 77829
costs relating to processing, storing, and transferring data for 77830
the effective operation of the EMIS. These costs may include, but 77831
are not limited to, personnel, hardware, software development, 77832
communications connectivity, professional development, and support 77833
services, and to provide services to participate in the State 77834
Education Technology Plan pursuant to section 3301.07 of the 77835
Revised Code. 77836

Of the foregoing appropriation item 200-446, Education 77837
Management Information System, up to \$8,055,189 in each fiscal 77838
year shall be distributed on a per-pupil basis to school 77839
districts, community schools established under Chapter 3314. of 77840
the Revised Code, educational service centers, joint vocational 77841
school districts, and any other education entity that reports data 77842
through EMIS. From this funding, each school district or community 77843
school established under Chapter 3314. of the Revised Code with 77844
enrollment greater than 100 students and each vocational school 77845
district shall receive a minimum of \$5,000 in each fiscal year. 77846
Each school district or community school established under Chapter 77847
3314. of the Revised Code with enrollment between one and one 77848
hundred and each educational service center and each county board 77849
of MR/DD that submits data through EMIS shall receive \$3,000 in 77850

each fiscal year. This subsidy shall be used for costs relating to 77851
reporting, processing, storing, transferring, and exchanging data 77852
necessary to meet requirements of the Department of Education's 77853
data system. 77854

The remainder of appropriation item 200-446, Education 77855
Management Information System, shall be used to develop and 77856
support a common core of data definitions and standards as adopted 77857
by the Education Data Advisory Council, including the ongoing 77858
development and maintenance of the data dictionary and data 77859
warehouse. In addition, such funds shall be used to support the 77860
development and implementation of data standards and the design, 77861
development, and implementation of a new data exchange system. 77862

Any provider of software meeting the standards approved by 77863
the Education Data Advisory Council shall be designated as an 77864
approved vendor and may enter into contracts with local school 77865
districts, community schools, data acquisition centers, or other 77866
educational entities for the purpose of collecting and managing 77867
data required under Ohio's education management information system 77868
(EMIS) laws. On an annual basis, the Department of Education shall 77869
convene an advisory group of school districts, community schools, 77870
and other education-related entities to review the Education 77871
Management Information System data definitions and data format 77872
standards. The advisory group shall recommend changes and 77873
enhancements based upon surveys of its members, education agencies 77874
in other states, and current industry practices, to reflect best 77875
practices, align with federal initiatives, and meet the needs of 77876
school districts. 77877

School districts and community schools not implementing a 77878
common and uniform set of data definitions and data format 77879
standards for Education Management Information System purposes 77880
shall have all EMIS funding withheld until they are in compliance. 77881

GED TESTING 77882

The foregoing appropriation item 200-447, GED Testing, shall 77883
be used to provide General Educational Development (GED) testing 77884
at no cost to applicants, under rules adopted by the State Board 77885
of Education. The Department of Education shall reimburse school 77886
districts and community schools, created under Chapter 3314. of 77887
the Revised Code, for a portion of the costs incurred in providing 77888
summer instructional or intervention services to students who have 77889
not graduated because of their inability to pass one or more parts 77890
of the state's Ohio Graduation Test or ninth grade proficiency 77891
test. School districts shall also provide such services to 77892
students who are residents of the district under section 3313.64 77893
of the Revised Code, but who are enrolled in chartered, nonpublic 77894
schools. The services shall be provided in the public school, in 77895
nonpublic schools, in public centers, or in mobile units located 77896
on or off the nonpublic school premises. No school district shall 77897
provide summer instructional or intervention services to nonpublic 77898
school students as authorized by this section unless such services 77899
are available to students attending the public schools within the 77900
district. No school district shall provide services for use in 77901
religious courses, devotional exercises, religious training, or 77902
any other religious activity. Chartered, nonpublic schools shall 77903
pay for any unreimbursed costs incurred by school districts for 77904
providing summer instruction or intervention services to students 77905
enrolled in chartered, nonpublic schools. School districts may 77906
provide these services to students directly or contract with 77907
postsecondary or nonprofit community-based institutions in 77908
providing instruction. 77909

EDUCATOR PREPARATION 77910

Of the foregoing appropriation item 200-448, Educator 77911
Preparation, \$100,000 in each fiscal year shall be provided in 77912
conjunction with funding in the Board of Regents' budget under 77913

appropriation item 235-435, Teacher Improvement Initiatives, to 77914
the Teacher Quality Partnership project. The Teacher Quality 77915
Partnership is a research consortium of Ohio's fifty colleges and 77916
universities providing teacher preparation programs. Funds shall 77917
be used to support a comprehensive longitudinal study of the 77918
preparation, in-school support, and effectiveness of Ohio 77919
teachers. 77920

Of the foregoing appropriation item 200-448, Educator 77921
Preparation, up to \$1,551,000 in each fiscal year shall be used by 77922
the Department to support the Educator Standards Board under 77923
section 3319.61 of the Revised Code as it develops and recommends 77924
to the State Board of Education standards for educator training 77925
and standards for teacher and other school leadership positions. 77926

COMMUNITY SCHOOLS 77927

Of the foregoing appropriation item 200-455, Community 77928
Schools, up to \$1,308,661 in each fiscal year may be used by the 77929
Department of Education for additional services and 77930
responsibilities under section 3314.11 of the Revised Code. 77931

Of the foregoing appropriation item 200-455, Community 77932
Schools, up to \$225,000 in each fiscal year may be used by the 77933
Department of Education for developing and conducting training 77934
sessions for sponsors and prospective sponsors of community 77935
schools as prescribed in division (A)(1) of section 3314.015 of 77936
the Revised Code. In developing the training sessions, the 77937
Department shall collect and disseminate examples of best 77938
practices used by sponsors of independent charter schools in Ohio 77939
and other states. 77940

The remaining appropriation may be used by the Department of 77941
Education to make grants of up to \$50,000 to each proposing group 77942
with a preliminary agreement obtained under division (C)(2) of 77943
section 3314.02 of the Revised Code in order to defray planning 77944

and initial start-up costs. In the first year of operation of a
community school, the Department of Education may make a grant of
not more than \$100,000 to the governing authority of the school to
partially defray additional start-up costs. The amount of the
grant shall be based on a thorough examination of the needs of the
community school. The Department of Education shall not utilize
moneys received under this section for any other purpose other
than those specified under this section.

A community school awarded start-up grants from appropriation
item 200-613, Public Charter Schools (Fund 3T4), shall not be
eligible for grants under this section.

Section 206.09.21. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200-502, Pupil
Transportation, up to \$822,400 in each fiscal year may be used by
the Department of Education for training prospective and
experienced school bus drivers in accordance with training
programs prescribed by the Department. Up to \$58,115,428 in fiscal
year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by
the Department of Education for special education transportation
reimbursements to school districts and county MR/DD boards for
transportation operating costs as provided in division (M) of
section 3317.024 of the Revised Code. The remainder of
appropriation item 200-502, Pupil Transportation, shall be used
for the state reimbursement of public school districts' costs in
transporting pupils to and from the school they attend in
accordance with the district's policy, State Board of Education
standards, and the Revised Code.

Notwithstanding the distribution formula outlined in division
(D) of section 3317.022 of the Revised Code, each school district
shall receive an additional two per cent in state funding for
transportation in fiscal year 2006 over what was received in

fiscal year 2005, and the local share of transportation costs that
is used in the calculation of the charge-off supplement and excess
cost supplement for each school district in fiscal year 2006 shall
be increased by two per cent from that used in calculations in
fiscal year 2005.

Notwithstanding the distribution formula outlined in division
(D) of section 3317.022 of the Revised Code, each school district
shall receive an additional two per cent in state funding for
transportation in fiscal year 2007 over what was received in
fiscal year 2006, and the local share of transportation costs that
is used in the calculation of the charge-off supplement and excess
cost supplement for each school district in fiscal year 2007 shall
be increased by two per cent from that used in calculations in
fiscal year 2006.

The Department of Education shall recommend a new formula for
allocating state funds for transportation costs. The Department
shall submit the recommendation to the Director of Budget and
Management, the Speaker of the House of Representatives, and the
President of the Senate not later than July 1, 2006.

School districts not receiving state funding for
transportation in fiscal year 2005 under division (D) of section
3317.022 of the Revised Code shall not receive state funding for
transportation in fiscal year 2006 or fiscal year 2007.

BUS PURCHASE ALLOWANCE

The foregoing appropriation item 200-503, Bus Purchase
Allowance, shall be distributed to school districts, educational
service centers, and county MR/DD boards pursuant to rules adopted
under section 3317.07 of the Revised Code. Up to 28 per cent of
the amount appropriated may be used to reimburse school districts
and educational service centers for the purchase of buses to
transport handicapped and nonpublic school students and to county

MR/DD boards, the Ohio School for the Deaf, and the Ohio School
for the Blind for the purchase of buses to transport handicapped
students. 78007
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SCHOOL LUNCH MATCH 78010

The foregoing appropriation item 200-505, School Lunch Match,
shall be used to provide matching funds to obtain federal funds
for the school lunch program. 78011
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Section 206.09.24. ADULT LITERACY EDUCATION 78014

The foregoing appropriation item 200-509, Adult Literacy
Education, shall be used to support adult basic and literacy
education instructional programs and the State Literacy Resource
Center Program. 78015
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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. 78019
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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. 78022
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Of the foregoing appropriation item 200-509, Adult Literacy
Education, \$130,000 in each fiscal year shall be used to support
initiatives for English as a Second Language programs. Funding
shall be distributed as follows: \$60,000 in each fiscal year for
Jewish Community Federation of Cleveland, \$25,000 in each fiscal
year for Yassenoff Jewish Community Center of Columbus, \$30,000 in
each fiscal year for Jewish Family Services of Cincinnati, and
\$15,000 in each fiscal year for Jewish Family Services of Dayton. 78028
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The remainder of the appropriation shall be used to continue 78036

to satisfy the state match and maintenance of effort requirements 78037
for the support and operation of the Department of 78038
Education-administered instructional grant program for adult basic 78039
and literacy education in accordance with the Department's state 78040
plan for adult basic and literacy education as approved by the 78041
State Board of Education and the Secretary of the United States 78042
Department of Education. 78043

AUXILIARY SERVICES 78044

The foregoing appropriation item 200-511, Auxiliary Services, 78045
shall be used by the Department of Education for the purpose of 78046
implementing section 3317.06 of the Revised Code. Of the 78047
appropriation, up to \$2,000,000 in each fiscal year may be used 78048
for payment of the Post-Secondary Enrollment Options Program for 78049
nonpublic students under section 3365.10 of the Revised Code. 78050

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 78051

Of the foregoing appropriation item 200-514, Postsecondary 78052
Adult Career-Technical Education, \$40,000 in each fiscal year 78053
shall be used for statewide coordination of the activities of the 78054
Ohio Young Farmers. 78055

The remainder of appropriation item 200-514, Postsecondary 78056
Adult Career-Technical Education, shall be used by the State Board 78057
of Education to provide postsecondary adult career-technical 78058
education under sections 3313.52 and 3313.53 of the Revised Code. 78059

Section 206.09.27. GIFTED PUPIL PROGRAM 78060

The foregoing appropriation item 200-521, Gifted Pupil 78061
Program, shall be used for gifted education units not to exceed 78062
1,110 in each fiscal year under division (P) of section 3317.024 78063
and division (F) of section 3317.05 of the Revised Code. 78064

Of the foregoing appropriation item 200-521, Gifted Pupil 78065
Program, up to \$4,700,000 in each fiscal year may be used as an 78066

additional supplement for identifying gifted students under 78067
Chapter 3324. of the Revised Code. 78068

Of the foregoing appropriation item 200-521, Gifted Pupil 78069
Program, the Department of Education may expend up to \$940,000 in 78070
each fiscal year for the Summer Honors Institute for gifted 78071
freshman and sophomore high school students. Up to \$65,800 in each 78072
fiscal year shall be used for the Ohio Summer School for the 78073
Gifted (Martin Essex Program). 78074

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 78075

The foregoing appropriation item 200-532, Nonpublic 78076
Administrative Cost Reimbursement, shall be used by the Department 78077
of Education for the purpose of implementing section 3317.063 of 78078
the Revised Code. 78079

Section 206.09.30. SPECIAL EDUCATION ENHANCEMENTS 78080

Of the foregoing appropriation item 200-540, Special 78081
Education Enhancements, up to \$46,357,775 in fiscal year 2006 and 78082
up to \$46,826,353 in fiscal year 2007 shall be used to fund 78083
special education and related services at county boards of mental 78084
retardation and developmental disabilities for eligible students 78085
under section 3317.20 of the Revised Code and at institutions for 78086
eligible students under section 3317.201 of the Revised Code. 78087

Of the foregoing appropriation item 200-540, Special 78088
Education Enhancements, up to \$2,906,875 in each fiscal year shall 78089
be used for home instruction for children with disabilities; up to 78090
\$1,462,500 in each fiscal year shall be used for parent mentoring 78091
programs; and up to \$2,408,396 in each fiscal year may be used for 78092
school psychology interns. 78093

Of the foregoing appropriation item 200-540, Special 78094
Education Enhancements, \$750,000 in each fiscal year shall be used 78095
for the Out of School Initiative of Sinclair Community College. 78096

Of the foregoing appropriation item 200-540, Special 78097
Education Enhancements, \$200,000 shall be used for a preschool 78098
special education pilot program in Bowling Green City School 78099
District. 78100

Of the foregoing appropriation item 200-540, Special 78101
Education Enhancements, \$100,000 in each fiscal year shall be used 78102
to support the Bellefaire Jewish Children's Bureau. 78103

Of the foregoing appropriation item 200-540, Special 78104
Education Enhancements, up to \$79,194,060 in fiscal year 2006 and 78105
up to \$79,986,001 in fiscal year 2007 shall be distributed by the 78106
Department of Education to county boards of mental retardation and 78107
developmental disabilities, educational service centers, and 78108
school districts for preschool special education units and 78109
preschool supervisory units under section 3317.052 of the Revised 78110
Code. The Department may reimburse county boards of mental 78111
retardation and developmental disabilities, educational service 78112
centers, and school districts for related services as defined in 78113
rule 3301-51-11 of the Administrative Code, for preschool 78114
occupational and physical therapy services provided by a physical 78115
therapy assistant and certified occupational therapy assistant, 78116
and for an instructional assistant. To the greatest extent 78117
possible, the Department of Education shall allocate these units 78118
to school districts and educational service centers. 78119

No physical therapy assistant who provides services under 78120
this section shall fail to practice in accordance with the 78121
requirements of Chapter 4755. of the Revised Code and rules 78122
4755-27-02 and 4755-27-03 of the Administrative Code. No 78123
occupational therapy assistant who provides services under this 78124
section shall fail to practice in accordance with the requirements 78125
of Chapter 4755. of the Revised Code and rules 4755-7-01 and 78126
4755-7-03 of the Administrative Code. 78127

The Department of Education shall require school districts, 78128
educational service centers, and county MR/DD boards serving 78129
preschool children with disabilities to document child progress 78130
using research-based indicators prescribed by the Department and 78131
report results annually. The reporting dates and method shall be 78132
determined by the Department. 78133

Section 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 78134

Of the foregoing appropriation item 200-545, Career-Technical 78135
Education Enhancements, up to \$2,436,070 in each fiscal year shall 78136
be used to fund grants for career-technical education at 78137
institutions under division (C) of section 3317.052 of the Revised 78138
Code. 78139

Of the foregoing appropriation item 200-545, Career-Technical 78140
Education Enhancements, up to \$2,621,507 in each fiscal year shall 78141
be used by the Department of Education to fund competitive grants 78142
to tech prep consortia that expand the number of students enrolled 78143
in tech prep programs. These grant funds shall be used to directly 78144
support expanded tech prep programs, including equipment, provided 78145
to students enrolled in school districts, including joint 78146
vocational school districts, and affiliated higher education 78147
institutions. 78148

Of the foregoing appropriation item 200-545, Career-Technical 78149
Education Enhancements, \$943,873 in fiscal year 2006 shall be used 78150
to provide an amount to each eligible school district for the 78151
replacement or updating of equipment essential for the instruction 78152
of students in job skills taught as part of a career-technical 78153
program or programs approved for such instruction by the State 78154
Board of Education. School districts replacing or updating 78155
career-technical education equipment may purchase or lease such 78156
equipment. The Department of Education shall review and approve 78157
all equipment requests and may allot appropriated funds to 78158

eligible school districts on the basis of the number of full-time 78159
equivalent workforce development teachers in all eligible 78160
districts making application for funds. 78161

The State Board of Education may adopt standards of need for 78162
equipment allocation. Pursuant to the adoption of any such 78163
standards of need by the State Board of Education, appropriated 78164
funds may be allotted to eligible districts according to such 78165
standards. Equipment funds allotted under either process shall be 78166
provided to a school district at 30, 40, or 50 per cent of cost on 78167
the basis of a rating developed by the Department of Education 78168
using the state share percentage as provided in division (B)(2) of 78169
section 3317.022 of the Revised Code. 78170

Of the foregoing appropriation item 200-545, Career-Technical 78171
Education Enhancements, up to \$3,401,000 in each fiscal year shall 78172
be used by the Department of Education to support existing High 78173
Schools That Work (HSTW) sites, develop and support new sites, 78174
fund technical assistance, and support regional centers and middle 78175
school programs. The purpose of HSTW is to combine challenging 78176
academic courses and modern career-technical studies to raise the 78177
academic achievement of students. HSTW provides intensive 78178
technical assistance, focused staff development, targeted 78179
assessment services, and ongoing communications and networking 78180
opportunities. 78181

Of the foregoing appropriation item 200-545, Career-Technical 78182
Education Enhancements, up to \$466,992 in each fiscal year shall 78183
be allocated for the Ohio Career Information System (OCIS) and 78184
used for the dissemination of career information data to public 78185
schools, libraries, rehabilitation centers, two- and four-year 78186
colleges and universities, and other governmental units. 78187

Of the foregoing appropriation item 200-545, Career-Technical 78188
Educational Enhancements, up to \$300,000 in each fiscal year shall 78189

be used by the Department of Education to enable students in 78190
agricultural programs to enroll in a fifth quarter of instruction 78191
based on the agricultural education model of delivering work-based 78192
learning through supervised agricultural experience. The 78193
Department of Education shall determine eligibility criteria and 78194
the reporting process for the Agriculture 5th Quarter Project and 78195
shall fund as many programs as possible given the \$270,000 set 78196
aside. 78197

Section 206.09.36. FOUNDATION FUNDING 78198

The foregoing appropriation item 200-550, Foundation Funding, 78199
includes \$85,000,000 in each fiscal year for the state education 78200
aid offset due to the change in public utility valuation as a 78201
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 78202
General Assembly. This amount represents the total state education 78203
aid offset due to the valuation change for school districts and 78204
joint vocational school districts from all relevant appropriation 78205
line item sources. Upon certification by the Department of 78206
Education, in consultation with the Department of Taxation, to the 78207
Director of Budget and Management of the actual state aid offset, 78208
the cash transfer from fund 053, appropriation item 200-900, 78209
School District Property Tax Replacement - Utility, shall be 78210
decreased or increased by the Director of Budget and Management to 78211
match the certification in accordance with section 5727.84 of the 78212
Revised Code. 78213

Of the foregoing appropriation item 200-550, Foundation 78214
Funding, up to \$425,000 shall be expended in each fiscal year for 78215
court payments under section 2151.357 of the Revised Code; an 78216
amount shall be available in each fiscal year for the cost of 78217
reappraisal guarantee under section 3317.04 of the Revised Code; 78218
an amount shall be available in each fiscal year to fund up to 225 78219
full-time equivalent approved GRADS teacher grants under division 78220

(R) of section 3317.024 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts under division (A)(2) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts under division (F) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts under division (C) of section 3317.0212 of the Revised Code; and up to \$30,000,000 in each fiscal year shall be reserved for payments under sections 3317.026, 3317.027, and 3317.028 of the Revised Code except that the Controlling Board may increase the \$30,000,000 amount if presented with such a request from the Department of Education. Of the foregoing appropriation item 200-550, Foundation Funding, up to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal year 2007 shall be used to provide additional state aid to school districts for special education students under division (C)(3) of section 3317.022 of the Revised Code; up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code; and up to \$52,000,000 in each fiscal year shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be available for special education weighted funding under division (C)(1) of section 3317.022 and division (D)(1) of section 3317.16 of the Revised Code.

Of the foregoing appropriation item 200-550, Foundation Funding, an amount shall be available in each fiscal year to be used by the Department of Education for transitional aid for school districts and joint vocational school districts. Funds shall be distributed under the sections of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL

DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 78253
DISTRICTS." 78254

Of the foregoing appropriation item 200-550, Foundation 78255
Funding, up to \$1,000,000 in each fiscal year shall be used by the 78256
Department of Education for a program to pay for educational 78257
services for youth who have been assigned by a juvenile court or 78258
other authorized agency to any of the facilities described in 78259
division (A) of the section of this act entitled "PRIVATE 78260
TREATMENT FACILITY PROJECT." 78261

Of the foregoing appropriation item 200-550, Foundation 78262
Funding, up to \$3,700,000 in each fiscal year shall be used for 78263
school breakfast programs. Of this amount, up to \$900,000 shall be 78264
used in each fiscal year by the Department of Education to 78265
contract with the Children's Hunger Alliance to expand access to 78266
child nutrition programs consistent with the organization's 78267
continued ability to meet specified performance measures as 78268
detailed in the contract. Of this amount, the Children's Hunger 78269
Alliance shall use at least \$150,000 in each fiscal year to 78270
subcontract with an appropriate organization or organizations to 78271
expand summer food participation in underserved areas of the 78272
state, consistent with those organizations' continued ability to 78273
meet specified performance measures as detailed in the 78274
subcontracts. The remainder of the appropriation shall be used to 78275
partially reimburse school buildings within school districts that 78276
are required to have a school breakfast program under section 78277
3313.813 of the Revised Code, at a rate decided by the Department. 78278

Of the foregoing appropriation item 200-550, Foundation 78279
Funding, up to \$7,300,000 in fiscal year 2006 and up to \$8,600,000 78280
in fiscal year 2007 shall be used to operate the school choice 78281
program in the Cleveland Municipal School District under sections 78282
3313.974 to 3313.979 of the Revised Code. 78283

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, Gifted Pupil Program, 200-540, Special Education Enhancements, and 200-550, Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts and joint vocational school districts under Chapter 3317. of the Revised Code. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations under Chapter 3317. of the Revised Code. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid

obligations, the Department of Education shall seek approval from 78316
the Controlling Board to transfer funds as needed. 78317

Section 206.09.37. DISTRICT SPENDING REQUIREMENTS 78318

The Department of Education shall review district spending 78319
requirements as specified in section 3317.029 of the Revised Code 78320
and shall submit a report recommending modifications by March 31, 78321
2007. Copies of the report shall be provided to the Director of 78322
Budget and Management, the Speaker of the House of 78323
Representatives, and the President of the Senate. The 78324
recommendations shall include decreasing degrees of flexibility of 78325
spending for districts not meeting adequate progress standards as 78326
defined by the Department of Education. Recommendations shall also 78327
specifically review the definition of class size reduction in 78328
division (J)(7) of section 3317.029 of the Revised Code. The 78329
reports submitted by school districts under the section of this 78330
act entitled "INTERVENTION FUNDING" shall be used to inform these 78331
recommendations. 78332

**Section 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND 78333
EXEMPTED VILLAGE SCHOOL DISTRICTS** 78334

(A) The Department of Education shall distribute funds within 78335
appropriation item 200-550, Foundation Funding, for transitional 78336
aid in each fiscal year to each qualifying city, local, and 78337
exempted village school district. 78338

In fiscal years 2006 and 2007, the Department shall pay 78339
transitional aid to each city, local, or exempted village school 78340
district that experiences any decrease in its SF-3 funding plus 78341
charge-off supplement for the current fiscal year from its SF-3 78342
funding plus charge-off supplement for the previous fiscal year. 78343
The amount of the transitional aid payment shall equal the 78344
difference between the district's SF-3 funding plus charge-off 78345

supplement for the current fiscal year and its SF-3 funding plus charge-off supplement for the previous fiscal year. 78346
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(B)(1) Subject to divisions (B)(2) and (3) of this section, 78348
the "SF-3 funding plus charge-off supplement" for each city, 78349
local, and exempted village school district in fiscal years 2006 78350
and 2007 equals the sum of the following: 78351

(a) Base-cost funding under division (A) of section 3317.022 78352
of the Revised Code; 78353

(b) Special education and related services additional 78354
weighted funding under division (C)(1) of section 3317.022 of the 78355
Revised Code; 78356

(c) Speech services funding under division (C)(4) of section 78357
3317.022 of the Revised Code; 78358

(d) Vocational education additional weighted funding under 78359
division (E) of section 3317.022 of the Revised Code; 78360

(e) GRADS funding under division (R) of section 3317.024 of 78361
the Revised Code; 78362

(f) Adjustments for classroom teachers and educational 78363
service personnel under divisions (B), (C), and (D) of section 78364
3317.023 of the Revised Code; 78365

(g) Poverty-Based Assistance under section 3317.029 of the 78366
Revised Code; 78367

(h) Gifted education units under section 3317.05 of the 78368
Revised Code; 78369

(i) Transportation under the section of this act entitled 78370
"PUPIL TRANSPORTATION"; 78371

(j) The excess cost supplement under division (F) of section 78372
3317.022 of the Revised Code; 78373

(k) Parity aid under section 3317.0217 of the Revised Code; 78374

(1) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code; 78375
78376

(m) The charge-off supplement under section 3317.0216 of the Revised Code. 78377
78378

(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 difference of (a) 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 minus (b) the amount of parity aid and the amount of disadvantaged pupil impact aid deducted that year under division (C)(6) of section 3314.08 of the Revised Code, as that section existed that year, and Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly on behalf of students entitled to attend school in the district who were enrolled in Internet- and community-based computer schools. 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. 78379
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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. 78398
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78402

(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: 78403
78404
78405

(a) Include in a school district's fiscal year 2005 payments 78406
any transitional aid paid to the district in fiscal year 2005 78407
under Section 41.37 of Am. Sub. H.B. 95 of the 125th General 78408
Assembly, as amended; 78409

(b) Subtract from a school district's fiscal year 2005 78410
payments the amount of parity aid and the amount of disadvantaged 78411
pupil impact aid deducted that year under division (C)(6) of 78412
section 3314.08 of the Revised Code, as that section existed that 78413
year, and Section 16 of Am. Sub. S.B. 2 of the 125th General 78414
Assembly on behalf of students entitled to attend school in the 78415
district who were enrolled in Internet- and community-based 78416
computer schools. 78417

(2) When calculating the reappraisal guarantee under division 78418
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 78419
2007, the Department shall include in a school district's fiscal 78420
year 2006 payments any transitional aid paid to the district in 78421
fiscal year 2006 under this section. 78422

(3) When calculating the reappraisal guarantee under division 78423
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 78424
2008, the Department shall include in a school district's fiscal 78425
year 2007 payments any transitional aid paid to the district in 78426
fiscal year 2007 under this section. 78427

Section 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL 78428
SCHOOL DISTRICTS 78429

(A) The Department of Education shall distribute funds within 78430
appropriation item 200-550, Foundation Funding, for transitional 78431
aid in each fiscal year to each joint vocational school district 78432
that experiences a decrease in its joint vocational funding for 78433
the current fiscal year exceeding 2% of its joint vocational 78434
funding from the previous fiscal year. The Department shall 78435

distribute to each such district transitional aid in an amount to 78436
reduce the decrease to 2% of the district's joint vocational 78437
funding from the previous fiscal year. 78438

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 78439
district's joint vocational funding equals the sum of the 78440
following: 78441

(a) Base-cost funding under division (B) of section 3317.16 78442
of the Revised Code; 78443

(b) Special education and related services additional 78444
weighted funding under division (D)(1) of section 3317.16 of the 78445
Revised Code; 78446

(c) Speech services funding under division (D)(2) of section 78447
3317.16 of the Revised Code; 78448

(d) Vocational education additional weighted funding under 78449
division (C) of section 3317.16 of the Revised Code; 78450

(e) GRADS funding under division (R) of section 3317.024 of 78451
the Revised Code; 78452

(f) The state aid guarantee under division (H) of section 78453
3317.16 of the Revised Code. 78454

(2) For purposes of calculating transitional aid in fiscal 78455
year 2007, a district's fiscal year 2006 joint vocational funding 78456
is the sum of the amounts described in divisions (B)(1)(a) to (f) 78457
of this section, plus any transitional aid paid to the district 78458
under this section, that the district actually received in fiscal 78459
year 2006. 78460

(3) The joint vocational funding in each fiscal year for each 78461
district is the sum of the amounts specified in divisions 78462
(B)(1)(a) to (f) and (B)(2) of this section less any general 78463
revenue fund spending reductions ordered by the Governor under 78464
section 126.05 of the Revised Code. 78465

EMERGENCY LOAN INTEREST SUBSIDY 78466

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.

Section 206.09.45. READING/WRITING IMPROVEMENT-CLASSROOM GRANTS 78475
78476

The foregoing appropriation item 200-566, Reading/Writing Improvement-Classroom Grants, shall be disbursed by the Department of Education to provide reading improvement grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through twelfth grade students to help struggling students improve their reading skills, improve reading outcomes in low-performing schools, and help close achievement gaps.

SAFE AND SUPPORTIVE SCHOOLS 78485

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe

and drug free school coordinators and social-emotional development 78496
programs. 78497

Section 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION 78498

The Superintendent of Public Instruction shall not request, 78499
and the Controlling Board shall not approve, the transfer of funds 78500
from appropriation item 200-901, Property Tax Allocation - 78501
Education, to any other appropriation item. 78502

The appropriation item 200-901, Property Tax Allocation - 78503
Education, is appropriated to pay for the state's costs incurred 78504
because of the homestead exemption and the property tax rollback. 78505
In cooperation with the Department of Taxation, the Department of 78506
Education shall distribute these funds directly to the appropriate 78507
school districts of the state, notwithstanding sections 321.24 and 78508
323.156 of the Revised Code, which provide for payment of the 78509
homestead exemption and property tax rollback by the Tax 78510
Commissioner to the appropriate county treasurer and the 78511
subsequent redistribution of these funds to the appropriate local 78512
taxing districts by the county auditor. 78513

Appropriation item 200-906, Tangible Tax Exemption - 78514
Education, is appropriated to pay for the state's costs incurred 78515
because of the tangible personal property tax exemption required 78516
by division (C)(3) of section 5709.01 of the Revised Code. In 78517
cooperation with the Department of Taxation, the Department of 78518
Education shall distribute to each county treasurer the total 78519
amount appearing in the notification from the county treasurer 78520
under division (G) of section 321.24 of the Revised Code, for all 78521
school districts located in the county, notwithstanding section 78522
321.24 of the Revised Code insofar as it provides for payment of 78523
the \$10,000 tangible personal property tax exemption by the Tax 78524
Commissioner to the appropriate county treasurer for all local 78525

taxing districts located in the county. Pursuant to division (G) 78526
of section 321.24 of the Revised Code, the county auditor shall 78527
distribute the amount paid by the Department of Education among 78528
the appropriate school districts. 78529

Upon receipt of these amounts, each school district shall 78530
distribute the amount among the proper funds as if it had been 78531
paid as real or tangible personal property taxes. Payments for the 78532
costs of administration shall continue to be paid to the county 78533
treasurer and county auditor as provided for in sections 319.54, 78534
321.26, and 323.156 of the Revised Code. 78535

Any sums, in addition to the amounts specifically 78536
appropriated in appropriation items 200-901, Property Tax 78537
Allocation - Education, for the homestead exemption and the 78538
property tax rollback payments, and 200-906, Tangible Tax 78539
Exemption - Education, for the \$10,000 tangible personal property 78540
tax exemption payments, which are determined to be necessary for 78541
these purposes, are hereby appropriated. 78542

Section 206.09.51. TEACHER CERTIFICATION AND LICENSURE 78543

The foregoing appropriation item 200-681, Teacher 78544
Certification and Licensure, shall be used by the Department of 78545
Education in each year of the biennium to administer and support 78546
teacher certification and licensure activities. 78547

SCHOOL DISTRICT SOLVENCY ASSISTANCE 78548

Of the foregoing appropriation item 200-687, School District 78549
Solvency Assistance, \$9,000,000 in each fiscal year shall be 78550
allocated to the School District Shared Resource Account and 78551
\$9,000,000 in each fiscal year shall be allocated to the 78552
Catastrophic Expenditures Account. These funds shall be used to 78553
provide assistance and grants to school districts to enable them 78554
to remain solvent under section 3316.20 of the Revised Code. 78555

Assistance and grants shall be subject to approval by the 78556
Controlling Board. Any required reimbursements from school 78557
districts for solvency assistance shall be made to the appropriate 78558
account in the School District Solvency Assistance Fund (Fund 78559
5H3). 78560

Notwithstanding any provision of law to the contrary, upon 78561
the request of the Superintendent of Public Instruction, the 78562
Director of Budget and Management may make transfers to the School 78563
District Solvency Assistance Fund (Fund 5H3) from any Department 78564
of Education-administered fund or the General Revenue Fund to 78565
maintain sufficient cash balances in the School District Solvency 78566
Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any 78567
funds transferred are hereby appropriated. The transferred funds 78568
may be used by the Department of Education to provide assistance 78569
and grants to school districts to enable them to remain solvent 78570
and to pay unforeseeable expenses of a temporary or emergency 78571
nature that the school district is unable to pay from existing 78572
resources. The Director of Budget and Management shall notify the 78573
members of the Controlling Board of any such transfers. 78574

READING FIRST 78575

The foregoing appropriation item 200-632, Reading First, 78576
shall be used by school districts to administer federal diagnostic 78577
tests as well as other functions permitted by federal statute. 78578
Notwithstanding section 3301.079 of the Revised Code, federal 78579
diagnostic tests may be recognized as meeting the state diagnostic 78580
testing requirements outlined in section 3301.079 of the Revised 78581
Code. 78582

HALF-MILL MAINTENANCE EQUALIZATION 78583

The foregoing appropriation item 200-626, Half-Mill 78584
Maintenance Equalization, shall be used in fiscal year 2007 to 78585
make payments pursuant to section 3318.18 of the Revised Code. 78586

Section 206.09.54. EARLY LEARNING INITIATIVE	78587
(A) As used in this section:	78588
(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).	78589 78590 78591 78592 78593 78594 78595
(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.	78596 78597 78598 78599
(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.	78600 78601
(4) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in kindergarten, is eligible for Title IV-A services, and 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.	78602 78603 78604 78605 78606 78607 78608 78609
(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:	78610 78611 78612
(a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of this section;	78613 78614
(b) Child care.	78615

(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.

(9) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(B) The Early Learning Initiative is hereby established. The Initiative shall be administered by the Department of Education and the Department of Job and Family Services 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 Education shall do all of the following:

(1) Define the early learning services that will be provided to eligible children through the Early Learning Initiative;

(2) In consultation with the Department of Job and Family 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.

(3) Establish early learning program guidelines for school 78646
readiness to assess the operation of early learning programs. 78647

(D) Any entity that seeks to be an early learning agency 78648
shall apply to the Department of Education by a deadline 78649
established by the Department. The Department of Education shall 78650
select entities that meet the criteria established under division 78651
(C)(2) of this section to be early learning agencies. Upon 78652
selection of an entity to be an early learning agency, the 78653
Department of Education shall designate the number of eligible 78654
children the agency will serve. The Department of Education shall 78655
notify the Office of Budget and Management and the Department of 78656
Job and Family Services of the number so designated. 78657

(E) The Department of Education and the Department of Job and 78658
Family Services shall enter into a contract with each early 78659
learning agency selected under division (D) of this section. The 78660
contract shall outline the terms and conditions applicable to the 78661
provision of Title IV-A services for eligible children and shall 78662
include at least the following: 78663

(1) The respective duties of the early learning agency, the 78664
Department of Education, and the Department of Job and Family 78665
Services; 78666

(2) Requirements applicable to the allowable use of and 78667
accountability for Title IV-A funds; 78668

(3) A requirement that the amount used by the early learning 78669
agency for development and administrative costs shall not exceed 78670
fifteen per cent of the total approved costs for the early 78671
learning program; 78672

(4) Reporting requirements, including a requirement that the 78673
early learning provider inform the Department of Education when 78674
the provider learns that a board of education of a city, local, or 78675
exempted village school district has determined, as a result of 78676

the kindergarten readiness assessment conducted under section 78677
3301.0715 of the Revised Code, that a child in an early learning 78678
program operated by the provider is not prepared for kindergarten; 78679

(5) The reimbursement methodology, including a requirement 78680
that reimbursement shall be based upon the weekly attendance rate 78681
of each eligible child, which shall be consistent with the rules 78682
adopted pursuant to division (C)(4) of Section 206.67.12 of this 78683
act; 78684

(6) Audit requirements; 78685

(7) Provisions for suspending, modifying, or terminating the 78686
contract; 78687

(8) A requirement that a child enrolled in a Head Start Plus 78688
program during fiscal year 2005 be given higher priority if the 78689
child is an eligible child and enrolls in an early learning 78690
program. 78691

The requirements of section 127.16 of the Revised Code do not 78692
apply to contracts entered into under this section. 78693

(F) If an early learning agency, or an early learning 78694
provider operating an early learning program on the agency's 78695
behalf, substantially fails to meet the early learning program 78696
guidelines for school readiness or exhibits below average 78697
performance, as determined by the Department of Education, the 78698
agency shall develop and implement a corrective action plan. The 78699
Department of Education shall approve the corrective action plan 78700
prior to implementation. 78701

(G) If an early learning agency fails to implement a 78702
corrective action plan under division (F) of this section, the 78703
Department of Education may direct the Department of Job and 78704
Family Services to withhold funding from the agency or either the 78705
Department of Education or the Department of Job and Family 78706

Services may suspend or terminate the contract with the agency. 78707

(H) Each early learning program shall do all of the 78708
following: 78709

(1) Meet teacher qualification requirements prescribed by 78710
section 3301.311 of the Revised Code; 78711

(2) Align curriculum to the early learning guidelines for 78712
school readiness established pursuant to division (C) of this 78713
section; 78714

(3) Meet any assessment requirements prescribed by section 78715
3301.0715 of the Revised Code that apply to the program; 78716

(4) Require teachers, except teachers enrolled and working to 78717
obtain a degree pursuant to section 3301.311 of the Revised Code, 78718
to attend a minimum of twenty hours per year of professional 78719
development as prescribed by the Department of Education regarding 78720
the implementation of content standards and assessments; 78721

(5) Document and report child progress in meeting the early 78722
learning program guidelines for school readiness; 78723

(6) Meet and report compliance with the early learning 78724
program guidelines for school success. 78725

(I) Of the foregoing appropriation item 200-663, Early 78726
Learning Initiative, up to \$2,200,000 in each fiscal year may be 78727
used by the Department of Education to perform administrative 78728
functions for the Early Learning Initiative. The Director of 78729
Budget and Management may transfer appropriation, as needed, from 78730
the Department of Education, appropriation item 200-663, Early 78731
Learning Initiative in Fund 5W2, to the Department of Job and 78732
Family Services, appropriation item 600-689, TANF Block Grant in 78733
Fund 3V6, for the successful operation of the Early Learning 78734
Initiative. This transfer shall take place not less than fifteen 78735
days after the Department of Education has provided the Office of 78736

Budget and Management and the Department of Job and Family
Services its determination as to the number of children to be
served by each early learning agency under division (D) of this
section. The appropriation transferred is hereby authorized.

START UP FUNDS 78741

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 as
follows:

(A) If, for fiscal year 2006, the agency will not be an early
learning agency, the agency shall repay the entire amount of the
start-up grant it received in fiscal year 2004 and fiscal year
2005 not later than June 30, 2007, in accordance with a payment
schedule agreed to by the Department of Education.

(B) If, for fiscal year 2006, the agency will be an early
learning agency and the number of eligible children served
beginning in fiscal year 2006 is less than the number for which
the start up grant was based, the amount of reimbursement shall be
adjusted based on the number of eligible children who will be
served by the agency in fiscal year 2006 and the rate of
reimbursement for the early learning program set by the Department
of Job and Family Services. The agency shall repay the amount
determined pursuant to this division by not later than June 30,
2007, in accordance with a payment schedule agreed to by the
Department of Education.

(C) If, for fiscal year 2006, the agency will be an early
learning provider and the number of eligible children served
beginning in fiscal year 2006 is greater than or equal to the

number for which the start up grants were based, the agency shall 78768
be allowed to retain the total amount of the start up grant it 78769
received. 78770

(D) Within ninety days after the effective date of this 78771
section, the Title IV-A Head Start agencies, Title IV-A Head Start 78772
Plus agencies, and the Department of Education shall determine the 78773
amounts of the start up grants to be repaid and within thirty days 78774
thereafter determine the repayment schedule for such amounts. The 78775
Department of Education shall refer any amounts remaining due and 78776
payable to the state after June 30, 2007, to the Attorney General 78777
for collection under section 131.02 of the Revised Code. 78778

(E) Any start up grants that are retained by early learning 78779
agencies pursuant to this section shall be reimbursed to the 78780
General Revenue Fund when the early learning program ceases or is 78781
no longer funded from Title IV-A or if an agency's participation 78782
in the early learning program ceases. 78783

Section 206.09.55. AUXILIARY SERVICES REIMBURSEMENT 78784

Notwithstanding section 3317.064 of the Revised Code, if the 78785
unobligated cash balance is sufficient, the Treasurer of State 78786
shall transfer \$1,500,000 in fiscal year 2006 within thirty days 78787
after the effective date of this section, and \$1,500,000 in fiscal 78788
year 2007 by August 1, 2006, from the Auxiliary Services Personnel 78789
Unemployment Compensation Fund to the Department of Education's 78790
Auxiliary Services Reimbursement Fund (Fund 598). 78791

Section 206.09.57. LOTTERY PROFITS EDUCATION FUND 78792

Appropriation item 200-612, Foundation Funding (Fund 017), 78793
shall be used in conjunction with appropriation item 200-550, 78794
Foundation Funding (GRF), to provide payments to school districts 78795
under Chapter 3317. of the Revised Code. 78796

The Department of Education, with the approval of the 78797
Director of Budget and Management, shall determine the monthly 78798
distribution schedules of appropriation item 200-550, Foundation 78799
Funding (GRF), and appropriation item 200-612, Foundation Funding 78800
(Fund 017). If adjustments to the monthly distribution schedule 78801
are necessary, the Department of Education shall make such 78802
adjustments with the approval of the Director of Budget and 78803
Management. 78804

The Director of Budget and Management shall transfer via 78805
intrastate transfer voucher the amount appropriated under the 78806
Lottery Profits Education Fund for appropriation item 200-682, 78807
Lease Rental Payment Reimbursement, to the General Revenue Fund on 78808
a schedule determined by the director. These funds shall support 78809
the appropriation item 230-428, Lease Rental Payments (GRF), of 78810
the School Facilities Commission. 78811

Section 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND 78812

(A) There is hereby created the Lottery Profits Education 78813
Reserve Fund (Fund 018) in the State Treasury. Investment earnings 78814
of the Lottery Profits Education Reserve Fund shall be credited to 78815
the fund. The Superintendent of Public Instruction may certify 78816
cash balances exceeding \$75,000,000 in the Lottery Profits 78817
Education Reserve Fund (Fund 018) to the Director of Budget and 78818
Management in June of any given fiscal year. Prior to making the 78819
certification, the Superintendent of Public Instruction shall 78820
determine whether the funds above the \$75,000,000 threshold are 78821
needed to help pay for foundation program obligations for that 78822
fiscal year under Chapter 3317. of the Revised Code. If those 78823
funds are needed for the foundation program, the Superintendent of 78824
Public Instruction shall notify and consult with the Director of 78825
Budget and Management to determine the amount that may be 78826
transferred to the Public School Building Fund (Fund 021). Upon 78827

this determination, the Director of Budget and Management shall 78828
transfer the amount from the Lottery Profits Education Reserve 78829
Fund (Fund 018) to the Public School Building Fund (Fund 021). The 78830
amount transferred is hereby appropriated to appropriation item 78831
CAP-622, Public School Buildings. 78832

For fiscal years 2006 and 2007, notwithstanding any 78833
provisions of law to the contrary, amounts necessary to make loans 78834
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 78835
Revised Code are hereby appropriated to the Lottery Profits 78836
Education Reserve Fund (Fund 018). Loan repayments from loans made 78837
in previous years shall be deposited to the fund. 78838

(B) On July 15, 2005, or as soon as possible thereafter, the 78839
Director of the Ohio Lottery Commission shall certify to the 78840
Director of Budget and Management the amount by which lottery 78841
profit transfers received by the Lottery Profits Education Fund 78842
(Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director 78843
of Budget and Management shall transfer the amount so certified, 78844
plus the cash balance in Fund 017, to the Lottery Profits 78845
Education Reserve Fund (Fund 018). 78846

(C) On July 15, 2006, or as soon as possible thereafter, the 78847
Director of the Ohio Lottery Commission shall certify to the 78848
Director of Budget and Management the amount by which lottery 78849
profit transfers received by the Lottery Profits Education Fund 78850
(Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director 78851
of Budget and Management shall transfer the amount so certified, 78852
plus the cash balance in Fund 017, to the Lottery profits 78853
Education Reserve Fund (Fund 018). 78854

(D) Any amounts transferred under division (B) or (C) of this 78855
section may be made available by the Controlling Board in fiscal 78856
years 2006 or 2007, at the request of the Superintendent of Public 78857
Instruction, to provide assistance and grants to school districts 78858

to enable them to remain solvent and to pay unforeseeable expenses 78859
of a temporary or emergency nature that they are unable to pay 78860
from existing resources under section 3316.20 of the Revised Code, 78861
and to provide payments to school districts under Chapter 3317. of 78862
the Revised Code. 78863

Section 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 78864
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 047) 78865

Notwithstanding any provision of law to the contrary, the 78866
Director of Budget and Management shall transfer \$10,010,000 in 78867
fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the 78868
General Revenue Fund to appropriation item 200-909, School 78869
District Property Tax Replacement - Business (Fund 047) in the 78870
Department of Education. The funds shall be used to reimburse 78871
school districts and joint vocational districts under section 78872
5751.21 of the Revised Code. 78873

Section 206.09.63. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 78874
BUSINESS 78875

The foregoing appropriation item, 200-909, School District 78876
Property Tax Replacement - Business, in Fund 047, shall be used by 78877
the Department of Education, in consultation with the Department 78878
of Taxation, to make payments to school districts and joint 78879
vocational school districts under section 5751.21 of the Revised 78880
Code. 78881

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 78882

The foregoing appropriation item 200-900, School District 78883
Property Tax Replacement-Utility, in Fund 053, shall be used by 78884
the Department of Education, in consultation with the Department 78885
of Taxation, to make payments to school districts and joint 78886
vocational school districts under section 5727.85 of the Revised 78887
Code. 78888

***Section 206.09.66. DISTRIBUTION FORMULAS** 78889

The Department of Education shall report the following to the 78890
Director of Budget and Management, the Legislative Office of 78891
Education Oversight, and the Legislative Service Commission: 78892

(A) Changes in formulas for distributing state 78893
appropriations, including administratively defined formula 78894
factors; 78895

(B) Discretionary changes in formulas for distributing 78896
federal appropriations; 78897

(C) Federally mandated changes in formulas for distributing 78898
federal appropriations. 78899

Any such changes shall be reported two weeks prior to the 78900
effective date of the change. 78901

Section 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING 78902

(A) As used in this section: 78903

(1) "Internet- or computer-based community school" has the 78904
same meaning as in section 3314.02 of the Revised Code. 78905

(2) "Service center ADM" has the same meaning as in section 78906
3317.11 of the Revised Code. 78907

(B) Notwithstanding division (F) of section 3317.11 of the 78908
Revised Code, no funds shall be provided under that division to an 78909
educational service center in either fiscal year for any pupils of 78910
a city or exempted village school district unless an agreement to 78911
provide services under section 3313.843 of the Revised Code was 78912
entered into by January 1, 1997, except that funds shall be 78913
provided to an educational service center for any pupils of a city 78914
school district if the agreement to provide services was entered 78915
into within one year of the date upon which such district changed 78916

from a local school district to a city school district. 78917

(C) Notwithstanding any provision of the Revised Code to the 78918
contrary, an educational service center that sponsors a community 78919
school under Chapter 3314. of the Revised Code in either fiscal 78920
year may include the students of that community school in its 78921
service center ADM for purposes of state funding under division 78922
(F) of section 3317.11 of the Revised Code, unless the community 78923
school is an Internet- or computer-based community school. A 78924
service center shall include the community school students in its 78925
service center ADM only to the extent that the students are not 78926
already so included, and only in accordance with guidelines issued 78927
by the Department of Education. If the students of a community 78928
school sponsored by an educational service center are included in 78929
the service center ADM of another educational service center, 78930
those students shall be removed from the service center ADM of the 78931
other educational service center and added to the service center 78932
ADM of the community school's sponsoring service center. The 78933
General Assembly authorizes this procedure as an incentive for 78934
educational service centers to take over sponsorship of community 78935
schools from the State Board of Education as the State Board's 78936
sponsorship is phased out in accordance with Sub. H.B. 364 of the 78937
124th General Assembly. No student of an Internet- or 78938
computer-based community school shall be counted in the service 78939
center ADM of any educational service center. The Department shall 78940
pay educational service centers under division (F) of section 78941
3317.11 of the Revised Code for community school students included 78942
in their service center ADMs under this division only if 78943
sufficient funds earmarked within appropriation item 200-550, 78944
Foundation Funding, for payments under that division remain after 78945
first paying for students attributable to their local and client 78946
school districts, in accordance with divisions (B) and (D) of this 78947
section. 78948

(D) If insufficient funds are earmarked within appropriation 78949
item 200-550, Foundation Funding, for payments under division (F) 78950
of section 3317.11 of the Revised Code and division (C) of this 78951
section in fiscal year 2006 or fiscal year 2007, the Department 78952
shall prioritize the distribution of the earmarked funds as 78953
follows: 78954

(1) The Department shall first distribute to each educational 78955
service center the per-student amount specified in division (F) of 78956
section 3317.11 of the Revised Code for each student in its 78957
service center ADM attributable to the local school districts 78958
within the service center's territory. 78959

(2) The Department shall distribute the remaining funds in 78960
each fiscal year to each educational service center for the 78961
students in its service center ADM attributable to each city and 78962
exempted village school district that had entered into an 78963
agreement with an educational service center for that fiscal year 78964
under section 3313.843 of the Revised Code by January 1, 1997, up 78965
to the per-student amount specified in division (F) of section 78966
3317.11 of the Revised Code. If insufficient funds remain to pay 78967
each service center the full amount specified in division (F) of 78968
that section for each such student, the Department shall 78969
distribute the remaining funds to each service center 78970
proportionally, on a per-student basis for each such student, 78971
unless that proportional per-student amount exceeds the amount 78972
specified in division (F)(1) of that section. In that case, the 78973
Department shall distribute the per-student amount specified in 78974
division (F)(1) of that section to each service center for each 78975
such student and shall distribute the remainder proportionally, on 78976
a per-student basis for each such student, to the multi-county 78977
service centers described in division (F)(2) of that section. 78978

(3) If the Department has paid each service center under 78979
divisions (D)(1) and (2) of this section, the full amount 78980

specified in division (F) of section 3317.11 of the Revised Code 78981
for each student attributable to its local school districts and 78982
its client school districts described in division (D)(2) of this 78983
section the Department shall distribute any remaining funds 78984
proportionally, on a per-student basis, to each service center 78985
that sponsors a community school, other than an Internet- or 78986
computer-based community school, for the students included in the 78987
service center ADM under division (C) of this section. These 78988
payments shall not exceed per student the amount specified in 78989
division (F) of section 3317.11 of the Revised Code. 78990

***Section 206.09.72.** For the school year commencing July 1, 78991
2005, or the school year commencing July 1, 2006, or both, the 78992
Superintendent of Public Instruction may waive for the board of 78993
education of any school district the ratio of teachers to pupils 78994
in kindergarten through fourth grade required under paragraph 78995
(A)(3) of rule 3301-35-05 of the Administrative Code if the 78996
following conditions apply: 78997

(A) The board of education requests the waiver. 78998

(B) After the Department of Education conducts an on-site 78999
evaluation of the district related to meeting the required ratio, 79000
the board of education demonstrates to the satisfaction of the 79001
Superintendent of Public Instruction that providing the facilities 79002
necessary to meet the required ratio during the district's regular 79003
school hours with pupils in attendance would impose an extreme 79004
hardship on the district. 79005

(C) The board of education provides assurances that are 79006
satisfactory to the Superintendent of Public Instruction that the 79007
board will act in good faith to meet the required ratio as soon as 79008
possible. 79009

Section 206.09.75. PRIVATE TREATMENT FACILITY PROJECT 79010

(A) As used in this section:	79011
(1) The following are "participating residential treatment centers":	79012 79013
(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;	79014 79015 79016 79017 79018 79019
(b) Abraxas, in Shelby;	79020
(c) Paint Creek, in Bainbridge;	79021
(d) Act One, in Akron;	79022
(e) Friars Club, in Cincinnati.	79023
(2) "Education program" means an elementary or secondary education program or a special education program and related services.	79024 79025 79026
(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.	79027 79028
(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.	79029 79030 79031 79032 79033
(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.	79034 79035 79036
(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	79037 79038 79039

section shall be enrolled in an approved educational program 79040
located in or near the facility. Approval of the educational 79041
program shall be contingent upon compliance with the criteria 79042
established for such programs by the Department of Education. The 79043
educational program shall be provided by a school district or 79044
educational service center, or by the residential facility itself. 79045
Maximum flexibility shall be given to the residential treatment 79046
facility to determine the provider. In the event that a voluntary 79047
agreement cannot be reached and the residential facility does not 79048
choose to provide the educational program, the educational service 79049
center in the county in which the facility is located shall 79050
provide the educational program at the treatment center to 79051
children under twenty-two years of age residing in the treatment 79052
center. 79053

(C) Any school district responsible for tuition for a 79054
residential child shall, notwithstanding any conflicting provision 79055
of the Revised Code regarding tuition payment, pay tuition for the 79056
child for fiscal year 2006 and fiscal year 2007 to the education 79057
program provider and in the amount specified in this division. If 79058
there is no school district responsible for tuition for a 79059
residential child and if the participating residential treatment 79060
center to which the child is assigned is located in the city, 79061
exempted village, or local school district that, if the child were 79062
not a resident of that treatment center, would be the school 79063
district where the child is entitled to attend school under 79064
sections 3313.64 and 3313.65 of the Revised Code, that school 79065
district, notwithstanding any conflicting provision of the Revised 79066
Code, shall pay tuition for the child for fiscal year 2006 and 79067
fiscal year 2007 under this division unless that school district 79068
is providing the educational program to the child under division 79069
(B) of this section. 79070

A tuition payment under this division shall be made to the 79071

school district, educational service center, or residential
treatment facility providing the educational program to the child. 79072
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The amount of tuition paid shall be: 79074

(1) The amount of tuition determined for the district under 79075
division (A) of section 3317.08 of the Revised Code; 79076

(2) In addition, for any student receiving special education 79077
pursuant to an individualized education program as defined in 79078
section 3323.01 of the Revised Code, a payment for excess costs. 79079
This payment shall equal the actual cost to the school district, 79080
educational service center, or residential treatment facility of 79081
providing special education and related services to the student 79082
pursuant to the student's individualized education program, minus 79083
the tuition paid for the child under division (C)(1) of this 79084
section. 79085

A school district paying tuition under this division shall 79086
not include the child for whom tuition is paid in the district's 79087
average daily membership certified under division (A) of section 79088
3317.03 of the Revised Code. 79089

(D) In each of fiscal years 2006 and 2007, the Department of 79090
Education shall reimburse, from appropriations made for the 79091
purpose, a school district, educational service center, or 79092
residential treatment facility, whichever is providing the 79093
service, that has demonstrated that it is in compliance with the 79094
funding criteria for each served child for whom a school district 79095
must pay tuition under division (C) of this section. The amount of 79096
the reimbursement shall be the formula amount specified in section 79097
3317.022 of the Revised Code, except that the department shall 79098
proportionately reduce this reimbursement if sufficient funds are 79099
not available to pay this amount to all qualified providers. 79100

(E) Funds provided to a school district, educational service 79101
center, or residential treatment facility under this section shall 79102

be used to supplement, not supplant, funds from other public 79103
sources for which the school district, service center, or 79104
residential treatment facility is entitled or eligible. 79105

(F) The Department of Education shall track the utilization 79106
of funds provided to school districts, educational service 79107
centers, and residential treatment facilities under this section 79108
and monitor the effect of the funding on the educational programs 79109
they provide in participating residential treatment facilities. 79110
The department shall monitor the programs for educational 79111
accountability. 79112

Section 206.09.78. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 79113
ASSESSMENT OF EDUCATION PROGRESS 79114

The General Assembly intends for the Superintendent of Public 79115
Instruction to provide for school district participation in the 79116
administration of the National Assessment of Education Progress in 79117
accordance with section 3301.27 of the Revised Code. Each school 79118
and school district selected for participation by the 79119
Superintendent of Public Instruction shall participate. 79120

Section 206.09.81. DEPARTMENT OF EDUCATION APPROPRIATION 79121
TRANSFERS FOR STUDENT ASSESSMENT 79122

In fiscal year 2006 and fiscal year 2007, if the 79123
Superintendent of Public Instruction determines that additional 79124
funds are needed to fully fund the requirements of Am. Sub. H.B. 3 79125
of the 125th General Assembly for assessments of student 79126
performance, the Superintendent of Public Instruction may 79127
recommend the reallocation of unspent and unencumbered 79128
appropriations within the Department of Education to the General 79129
Revenue Fund appropriation item 200-437, Student Assessment, to 79130
the Director of Budget and Management. If the Director of Budget 79131
and Management determines that such a reallocation is required, 79132

the Director of Budget and Management may transfer unspent and 79133
unencumbered funds within the Department of Education as necessary 79134
to appropriation item 200-437, Student Assessment. 79135

Section 206.09.84. (A) As used in this section: 79136

(1) "Entitled to attend school" means entitled to attend 79137
school in a school district under section 3313.64 and 3313.65 of 79138
the Revised Code. 79139

(2) "Formula ADM" and "category six special education ADM" 79140
have the same meanings as in section 3317.02 of the Revised Code. 79141

(3) "Individualized education program" has the same meaning 79142
as in section 3323.01 of the Revised Code. 79143

(4) "Parent" has the same meaning as in section 3313.64 of 79144
the Revised Code. 79145

(5) "Qualified special education child" is a child for whom 79146
all of the following conditions apply: 79147

(a) The school district in which the child is entitled to 79148
attend school has identified the child as autistic. 79149

(b) The school district in which the child is entitled to 79150
attend school has developed an individualized education program 79151
under Chapter 3323. of the Revised Code for the child. 79152

(c) The child either: 79153

(i) Was enrolled in the school district in which the child is 79154
entitled to attend school in any grade from preschool through 79155
twelve in the school year prior to the year in which a scholarship 79156
under this section is first sought for the child; or 79157

(ii) Is eligible to enter school in any grade preschool 79158
through twelve in the school district in which the child is 79159
entitled to attend school in the school year in which a 79160
scholarship under this section is first sought for the child. 79161

(6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section. 79162
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(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2006 and 2007, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school, by another public entity, or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a 79166
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child to attend a public special education program that operates 79194
under a contract, compact, or other bilateral agreement between 79195
the school district in which the child is entitled to attend 79196
school and another school district or other public provider, or 79197
for a child to attend a community school established under Chapter 79198
3314. of the Revised Code. However, nothing in this section or in 79199
any rule adopted by the State Board of Education shall prohibit a 79200
parent whose child attends a public special education program 79201
under a contract, compact, or other bilateral agreement, or a 79202
parent whose child attends a community school, from applying for 79203
and accepting a scholarship under this section so that the parent 79204
may withdraw the child from that program or community school and 79205
use the scholarship for the child to attend a special education 79206
program for which the parent is required to pay for services for 79207
the child. A child attending a special education program with a 79208
scholarship under this section shall continue to be entitled to 79209
transportation to and from that program in the manner prescribed 79210
by law. 79211

(C)(1) Notwithstanding anything to the contrary in the 79212
Revised Code, a child for whom a scholarship is awarded under this 79213
section shall be counted in the formula ADM and the category six 79214
special education ADM of the district in which the child is 79215
entitled to attend school and not in the formula ADM and the 79216
category six special education ADM of any other school district. 79217

(2) In each fiscal year, the Department shall deduct from the 79218
amounts paid to each school district under Chapter 3317. of the 79219
Revised Code, and, if necessary, sections 321.24 and 323.156 of 79220
the Revised Code, the aggregate amount of scholarships awarded 79221
under this section for qualified special education children 79222
included in the formula ADM and category six special education ADM 79223
of that school district as provided in division (C)(1) of this 79224
section. The scholarships deducted shall be considered as an 79225

approved special education and related services expense for the 79226
purpose of the school district's compliance with division (C)(5) 79227
of section 3317.022 of the Revised Code. 79228

(3) From time to time, the Department shall make a payment to 79229
the parent of each qualified special education child for whom a 79230
scholarship has been awarded under this section. The scholarship 79231
amount shall be proportionately reduced in the case of any such 79232
child who is not enrolled in the special education program for 79233
which a scholarship was awarded under this section for the entire 79234
school year. The Department shall make no payments to the parent 79235
of a child while any administrative or judicial mediation or 79236
proceedings with respect to the content of the child's 79237
individualized education program are pending. 79238

(D) A scholarship shall not be paid to a parent for payment 79239
of tuition owed to a nonpublic entity unless that entity is a 79240
registered private provider. The Department shall approve entities 79241
that meet the standards established by rule of the State Board for 79242
the program established under this section. 79243

(E) The State Board shall adopt rules under Chapter 119. of 79244
the Revised Code prescribing procedures necessary to implement 79245
this section, including, but not limited to, procedures and 79246
deadlines for parents to apply for scholarships, standards for 79247
registered private providers, and procedures for approval of 79248
entities as registered private providers. The Board shall adopt 79249
the rules so that the program established under this section is 79250
operational by January 1, 2004. 79251

Section 206.09.90. INTERVENTION FUNDING 79252

No later than September 30, 2006, each school district shall 79253
report, in a manner defined by the Department of Education, how 79254
state intervention funding provided under division (B)(1) of 79255

section 3317.012 and division (C) of section 3317.029 of the Revised Code in fiscal year 2006 was deployed. To the degree that school districts do not meet adequate progress standards as defined by the Department of Education, the Department shall use the reported information to intervene at the district and building levels to make recommendations on how state funding for intervention should be deployed in a more effective manner. This information shall also be used by the Department to inform its recommendations required in the section of this act entitled "DISTRICT SPENDING REQUIREMENTS."

Section 206.09.93. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

Section 206.09.99. The revisions by this act to the Post-Secondary Enrollment Options Program established under Chapter 3365. of the Revised Code shall apply as follows:

(A) The amendment to the definition of "tuition base" in section 3365.01 of the Revised Code, as amended by this act, shall

apply to payments for courses taken beginning in the 2005-2006 79286
school year. 79287

(B) The requirement that a secondary grade student be a 79288
resident of this state in order to participate in the 79289
Post-Secondary Enrollment Options Program as specified in section 79290
3365.02 of the Revised Code, as amended by this act, shall not 79291
apply to students participating in the program during fiscal year 79292
2005. That requirement applies to students participating in the 79293
program after July 1, 2005, regardless of whether they 79294
participated in the program prior to that date. 79295

Section 206.10.03. Not later than September 1, 2005, the 79296
Superintendent of Public Instruction shall begin preparations to 79297
implement the Educational Choice Scholarship Pilot Program 79298
established by sections 3310.01 to 3310.17 of the Revised Code. 79299
The Superintendent shall ensure that school districts, chartered 79300
nonpublic schools, students, and parents are informed of the 79301
Educational Choice Scholarship Pilot Program and how the Program 79302
may affect them. The Superintendent shall provide such information 79303
in sufficient time for affected parties to meet all deadlines 79304
imposed for participation in the Educational Choice Scholarship 79305
Pilot Program in the 2006-2007 school year. The State Board of 79306
Education shall adopt the rules required by section 3310.16 of the 79307
Revised Code so that those rules are in effect and the Educational 79308
Choice Scholarship Pilot Program is operational in the school year 79309
that commences July 1, 2006. 79310

The Superintendent shall select not more than 10,000 students 79311
in fiscal year 2007 to be awarded scholarships under the 79312
Educational Choice Scholarship Pilot Program. 79313

Section 206.10.05. Not later than December 31, 2005, the 79314
Department of Education shall make recommendations to the General 79315

Assembly regarding the payment of state parity aid to community schools in fiscal year 2007. 79316
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Section 206.10.07. (A) Within sixty days after the effective date of this section, the Director of Administrative Services shall contract with a third party to investigate the most cost effective method for funding school districts' health benefits. The third party shall consider all the following when conducting the investigation: 79318
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(1) Existing school district benefit offerings, employees' costs for the benefits, and cost sharing arrangements; 79324
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(2) Existing health care pools and consortiums in which school districts participate; 79326
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(3) Potential benefits of state or regional regulated health care pools or consortiums that offer multiple health care plans and that have different pools or consortiums for each region of the state; 79328
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(4) Existing strategies that positively manage health care costs; 79332
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(5) Other states' studies of, experience with, or existing statewide and regional health care pools or consortiums; 79334
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(6) Alternatives to statewide or regional health care pools, including, but not limited to, existing consortiums and school alliances. 79336
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(B) There is hereby created the Health Care Task Force within the Department of Administrative Services. The Director of Administrative Services shall appoint the members of the Task Force within ninety days after the effective date of this section and with the consent of the President of the Senate and the Speaker of the House of Representatives. The seventeen-member task 79339
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force shall consist of the following members:	79345
(1) One member from each of the following:	79346
(a) Ohio School Boards Association;	79347
(b) Ohio Education Association;	79348
(c) Ohio Association of Public School Employees;	79349
(d) Ohio Association of School Business Officials;	79350
(e) Ohio Association of Health Underwriters;	79351
(f) Department of Insurance;	79352
(g) Department of Administrative Services;	79353
(h) A school health care consortium.	79354
(2) One member of a health insuring corporation licensed to do business in Ohio and recommended by the Ohio Association of Health Plans;	79355 79356 79357
(3) A person licensed under Chapter 3923. of the Revised Code recommended by the Ohio Association of Health Plans;	79358 79359
(4) A third party administrator licensed under Chapter 3959. of the Revised Code;	79360 79361
(5) Three members of the Senate;	79362
(6) Three members of the House of Representatives.	79363
(C) Within ninety days after the Director of Administrative Services contracts with the third party to conduct the investigation described in division (A) of this section, the third party shall report initial data to the Health Care Task Force. Within ninety days after reporting the initial data, the third party shall report final data to the Task Force. Using the final data, the Task Force shall determine whether any changes to the existing school employee health benefit purchasing system would result in cost savings and make findings and recommendations based	79364 79365 79366 79367 79368 79369 79370 79371 79372

on these determinations. The Task Force's findings and 79373
recommendations shall include, but are not limited to, all of the 79374
following: 79375

(1) Identification of any necessary provisions needed to 79376
ensure long-term financial solvency and stability of a health care 79377
purchasing system; 79378

(2) Potential impacts of any changes to the existing 79379
purchasing structure on all of the following: 79380

(a) Private companies and brokers, consultants, and agents 79381
currently providing or producing health care benefits and services 79382
through fully-insured or self-insured arrangements; 79383

(b) Existing health care pooling and consortiums; 79384

(c) Individual school districts; 79385

(d) Existing and future collective bargaining agreements. 79386

(3) Identification of issues that could arise when school 79387
districts would transition from the existing purchasing structure 79388
to a new purchasing structure; 79389

(4) Projected costs and savings to the state, school boards, 79390
and school employees if the existing purchasing structure is 79391
changed, including, but not limited to, costs of health care 79392
claims, health care premiums, and administrative costs. 79393

(D) The Task Force shall submit the findings and 79394
recommendations described in division (C) of this section and the 79395
final data of the investigation done by the third party described 79396
in division (A) of this section to the President of the Senate, 79397
the Speaker of the House of Representatives, and the Director of 79398
Budget and Management not later than forty-five days after 79399
receiving the final data from the third party. The Director of 79400
Administrative Services may extend the deadline with the consent 79401
of the President of the Senate and the Speaker of the House of 79402

Representatives. The Director of Administrative Services shall
make copies of the findings and recommendations available to the
public upon request. After the Task Force submits findings and
recommendations as required in this division, the Task Force
ceases to exist.

Section 206.10.09. Within thirty days after the effective
date of this section, the Department of Education shall notify
each entity approved to be a sponsor of community schools pursuant
to division (B)(1) of section 3314.015 of the Revised Code prior
to the effective date of this section and each entity that is not
required to be so approved by section 3314.021 of the Revised Code
or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the
number of schools the entity may sponsor under that division.

Section 206.10.12. (A) The School Physical Fitness and
Wellness Advisory Council is hereby established. The Council shall
consist of the following members:

(1) A representative of the Ohio Association for Health,
Physical Education, Recreation and Dance, appointed by the
Association;

(2) A school food service director, appointed by the Ohio
School Food Service Association;

(3) A representative of the Ohio School Boards Association,
appointed by the Association;

(4) A registered dietician, appointed by the Ohio Dietetic
Association;

(5) A representative of the Ohio State Medical Association,
appointed by the Association;

(6) A representative of the food industry, appointed by the
Ohio Chamber of Commerce;

(7) A representative of the Ohio Parent Teacher Association, 79432
appointed by the Association; 79433

(8) A representative of the Ohio Soft Drink Association, 79434
appointed by the Association; 79435

(9) A representative of the Department of Education, 79436
appointed by the Superintendent of Public Instruction; 79437

(10) A representative of the Ohio Parks and Recreation 79438
Association, appointed by the Association; 79439

(11) The Director of Health; 79440

(12) A representative of the Ohio Children's Hunger Alliance, 79441
appointed by the Alliance. 79442

(B) Appointments to the Council shall be made within thirty 79443
days after the effective date of this section. The representative 79444
of the Department of Education shall be the chairperson of the 79445
Council. The Council shall meet at least every two months. The 79446
Department of Education shall provide administrative support to 79447
the Council in the performance of its duties. 79448

(C) The Council shall develop guidelines for best practices 79449
regarding nutrition education, physical activity for students, and 79450
school-based activities and school-business partnerships that 79451
promote student wellness. For this purpose, the Council shall 79452
examine research concerning these issues and review existing 79453
guidelines and best practices established by associations or 79454
governmental entities at the national, state, and local levels. 79455
The best practices guidelines developed by the Council shall 79456
provide information that school districts participating in a 79457
school lunch program under the "National School Lunch Act," 60 79458
Stat. 230 (1946), 42 U.S.C. 1751, as amended, may use when 79459
adopting local wellness policies as required by the "Child 79460
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended. 79461

The Council also shall develop strategies for districts to use in
evaluating the implementation of their local wellness policies to
determine if the goals and objectives described in those policies
are being met.

(D) Not later than December 31, 2005, the Council shall
compile a written report containing its best practices guidelines
and evaluation strategies. Copies of the report shall be provided
to each school district participating in a school lunch program as
described in division (C) of this section, the Governor, the
Speaker of the House of Representatives, and the President of the
Senate. Upon submission of its report, the Council shall cease to
exist.

Section 206.10.18. The Department of Education shall provide
\$400,000 in each fiscal year from available federal grant funds to
provide additional support for the Collaborative Language and
Literacy Instruction Project.

Section 206.10.21. (A) Notwithstanding section 3313.41 of the
Revised Code, a school district board of education in support of
economic development within the territory of the district may
dispose of real property that it owns in its corporate capacity,
and that exceeds in value ten thousand dollars, by direct sale in
lieu of offering the property for sale at public auction as
provided in division (A) of that section, in lieu of offering the
property for sale to an entity listed in division (C) of that
section, or in lieu of offering the property for sale to a
community school as provided in division (G) of that section, if
all of the following conditions are satisfied:

(1) The real property is encumbered by easements, liens, or
other use restrictions that benefit the person acquiring the
property under this section;

(2) The real property was part of or adjacent to real property previously disposed of by the board of education; 79492
79493

(3) The real property when sold will be used for commercial development. 79494
79495

(B) This section expires December 31, 2005. 79496

Section 206.10.24. Not later than July 1, 2006, the Superintendent of Public Instruction shall recommend to the General Assembly a plan whereby: 79497
79498
79499

(A) School districts make a second annual certification of formula ADM in the second half of each fiscal year, prior to the first day of April; 79500
79501
79502

(B) This second annual certification of formula ADM may be used to guarantee a minimum level of state funding to each school district for the next fiscal year, with sufficient notice so that the districts may prepare in advance of each school year. 79503
79504
79505
79506

The recommended plan shall include methods to accommodate enrollment growth trends in fast-growing districts. 79507
79508

Section 206.13. ELC OHIO ELECTIONS COMMISSION 79509

General Revenue Fund 79510

GRF 051-321 Operating Expenses \$ 411,623 \$ 411,623 79511

TOTAL GRF General Revenue Fund \$ 411,623 \$ 411,623 79512

General Services Fund Group 79513

4P2 051-601 Ohio Elections 79514

Commission Fund \$ 225,000 \$ 225,000 79515

TOTAL GSF General Services Fund \$ 225,000 \$ 225,000 79516

Group

TOTAL ALL BUDGET FUND GROUPS \$ 636,623 \$ 636,623 79517

Section 206.16. FUN STATE BOARD OF EMBALMERS AND FUNERAL 79519

DIRECTORS				79520
General Services Fund Group				79521
4K9 881-609 Operating Expenses	\$	598,933	\$	0 79522
TOTAL GSF General Services				79523
Fund Group	\$	598,933	\$	0 79524
TOTAL ALL BUDGET FUND GROUPS	\$	598,933	\$	0 79525

Section 206.19. ERB STATE EMPLOYMENT RELATIONS BOARD 79527

General Revenue Fund				79528
GRF 125-321 Operating Expenses	\$	3,265,397	\$	3,363,359 79529
TOTAL GRF General Revenue Fund	\$	3,265,397	\$	3,363,359 79530
General Services Fund Group				79531
572 125-603 Training and	\$	75,541	\$	75,541 79532
Publications				
TOTAL GSF General Services				79533
Fund Group	\$	75,541	\$	75,541 79534
TOTAL ALL BUDGET FUND GROUPS	\$	3,340,938	\$	3,438,900 79535

Section 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS 79537

General Services Fund Group				79538
4K9 892-609 Operating Expenses	\$	1,058,881	\$	1,058,881 79539
TOTAL GSF General Services				79540
Fund Group	\$	1,058,881	\$	1,058,881 79541
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,881	\$	1,058,881 79542

Section 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY 79544

General Revenue Fund				79545
GRF 715-403 Clean Ohio	\$	92,707	\$	0 79546
GRF 715-501 Local Air Pollution	\$	128,297	\$	0 79547
Control				
GRF 717-321 Surface Water	\$	1,112,342	\$	0 79548

GRF 718-321	Groundwater	\$	136,719	\$	0	79549
GRF 719-321	Air Pollution Control	\$	311,494	\$	0	79550
GRF 721-321	Drinking Water	\$	318,783	\$	0	79551
GRF 723-321	Hazardous Waste	\$	12,606	\$	0	79552
GRF 724-321	Pollution Prevention	\$	87,538	\$	0	79553
GRF 725-321	Laboratory	\$	152,043	\$	0	79554
GRF 726-321	Corrective Actions	\$	147,473	\$	0	79555
TOTAL GRF	General Revenue Fund	\$	2,500,002	\$	0	79556
General Services Fund Group						79557
199 715-602	Laboratory Services	\$	1,078,348	\$	1,083,574	79558
219 715-604	Central Support	\$	15,804,913	\$	16,345,805	79559
Indirect						
4A1 715-640	Operating Expenses	\$	3,369,731	\$	3,369,731	79560
TOTAL GSF	General Services					79561
Fund Group		\$	20,252,992	\$	20,799,110	79562
Federal Special Revenue Fund Group						79563
3F2 715-630	Revolving Loan Fund -	\$	152,021	\$	293,129	79564
Operating						
3F3 715-632	Fed Supported Cleanup	\$	2,792,648	\$	2,777,648	79565
and Response						
3F4 715-633	Water Quality	\$	710,000	\$	710,000	79566
Management						
3F5 715-641	Nonpoint Source	\$	7,815,000	\$	7,810,000	79567
Pollution Management						
3J1 715-620	Urban Stormwater	\$	706,000	\$	710,000	79568
3K2 715-628	Clean Water Act 106	\$	4,723,845	\$	5,023,846	79569
3K4 715-634	DOD Monitoring and	\$	1,450,333	\$	1,450,333	79570
Oversight						
3K6 715-639	Remedial Action Plan	\$	320,000	\$	319,000	79571
3N4 715-657	DOE Monitoring and	\$	3,181,736	\$	3,231,963	79572
Oversight						
3V7 715-606	Agencywide Grants	\$	458,115	\$	479,115	79573

352	715-611	Wastewater Pollution	\$	525,000	\$	530,000	79574
353	715-612	Public Water Supply	\$	3,384,959	\$	3,388,619	79575
354	715-614	Hazardous Waste Management - Federal	\$	4,203,891	\$	4,203,891	79576
357	715-619	Air Pollution Control - Federal	\$	6,966,337	\$	7,243,950	79577
362	715-605	Underground Injection Control - Federal	\$	111,874	\$	111,874	79578
TOTAL FED Federal Special Revenue							79579
Fund Group			\$	37,501,759	\$	38,283,368	79580
State Special Revenue Fund Group							79581
3T3	715-669	Drinking Water SRF	\$	2,411,614	\$	2,482,910	79582
4J0	715-638	Underground Injection Control	\$	438,285	\$	458,418	79583
4K2	715-648	Clean Air - Non Title V	\$	3,234,278	\$	3,178,062	79584
4K3	715-649	Solid Waste	\$	13,800,377	\$	14,282,845	79585
4K4	715-650	Surface Water Protection	\$	11,606,000	\$	12,420,000	79586
4K5	715-651	Drinking Water Protection	\$	7,202,901	\$	7,492,035	79587
4P5	715-654	Cozart Landfill	\$	149,728	\$	149,728	79588
4R5	715-656	Scrap Tire Management	\$	6,000,000	\$	6,000,000	79589
4R9	715-658	Voluntary Action Program	\$	1,008,765	\$	1,032,098	79590
4T3	715-659	Clean Air - Title V Permit Program	\$	16,960,373	\$	17,180,980	79591
4U7	715-660	Construction & Demolition Debris	\$	586,797	\$	582,305	79592
5BC	715-617	Clean Ohio	\$	648,939	\$	741,646	79593
5BC	715-622	Local Air Pollution Control	\$	898,072	\$	1,026,369	79594
5BC	715-624	Surface Water	\$	7,685,071	\$	8,797,413	79595

5BC	715-667	Groundwater	\$	957,022	\$	1,093,741	79596
5BC	715-672	Air Pollution Control	\$	4,234,681	\$	5,199,290	79597
5BC	715-673	Drinking Water	\$	2,231,467	\$	2,550,250	79598
5BC	715-675	Hazardous Waste	\$	88,241	\$	100,847	79599
5BC	715-676	Assistance and Prevention	\$	612,764	\$	700,302	79600
5BC	715-677	Laboratory	\$	1,064,290	\$	1,216,333	79601
5BC	715-678	Corrective Action	\$	1,032,302	\$	1,179,775	79602
5CD	715-682	Clean Diesel School Buses	\$	650,000	\$	850,000	79603
5H4	715-664	Groundwater Support	\$	2,325,922	\$	2,408,871	79604
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	79605
500	715-608	Immediate Removal Special Account	\$	482,000	\$	482,000	79606
503	715-621	Hazardous Waste Facility Management	\$	11,270,231	\$	11,711,473	79607
505	715-623	Hazardous Waste Cleanup	\$	11,482,988	\$	11,482,988	79608
505	715-674	Clean Ohio Environmental Review	\$	104,500	\$	109,725	79609
541	715-670	Site Specific Cleanup	\$	33,000	\$	34,650	79610
542	715-671	Risk Management Reporting	\$	146,188	\$	146,188	79611
592	715-627	Anti Tampering Settlement	\$	17,203	\$	9,707	79612
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000	79613
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,190,944	\$	250,000	79614
644	715-631	ER Radiological Safety	\$	286,114	\$	286,114	79615
660	715-629	Infectious Waste Management	\$	160,000	\$	100,000	79616

676	715-642	Water Pollution	\$	4,964,625	\$	4,964,625	79617
		Control Loan					
		Administration					
678	715-635	Air Toxic Release	\$	210,621	\$	210,622	79618
679	715-636	Emergency Planning	\$	2,828,647	\$	2,828,647	79619
696	715-643	Air Pollution Control	\$	750,000	\$	750,000	79620
		Administration					
699	715-644	Water Pollution	\$	750,000	\$	750,000	79621
		Control Administration					
TOTAL SSR	State Special Revenue		\$	122,034,950	\$	126,770,957	79622
Fund Group							
Clean Ohio Revitalization Fund Group							79623
5S1	715-607	Clean Ohio - Operating	\$	208,174	\$	208,174	79624
TOTAL CLF	Clean Ohio Revitalization		\$	208,174	\$	208,174	79625
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	182,497,877	\$	186,061,609	79626
AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT							79627
(A) There is hereby created the Auto Emissions Test Fund							79628
(Fund 5BY). When renewing a contract to continue the E-check							79629
program after December 31, 2005, the Ohio Environmental Protection							79630
Agency (EPA) shall use the foregoing appropriation item 715-681,							79631
Auto Emissions Test in the Auto Emissions Test Fund (Fund 5BY), to							79632
pay the contracted amount per test for the operation and oversight							79633
of the auto emissions testing programs in counties still							79634
designated as non-attainment or designated by the General Assembly							79635
to continue such tests under mandate of the federal Clean Air Act.							79636
These amounts are hereby appropriated.							79637
(B)(1) Not later than July 1, 2005, the Director of							79638
Environmental Protection, in conjunction with the Office of Budget							79639
and Management, shall estimate the amount necessary for operation							79640
of the Auto Emissions Testing Program for the period beginning							79641
January 1, 2006, and ending June 30, 2006. Notwithstanding section							79642

183.02 of the Revised Code, of the tobacco revenue that is 79643
credited to the Tobacco Master Settlement Agreement Fund (Fund 79644
087) in fiscal year 2005, the Director of Budget and Management 79645
shall withhold from the share that is determined pursuant to 79646
section 183.02 of the Revised Code to be the amount to be 79647
transferred from the Tobacco Master Settlement Agreement Fund 79648
(Fund 086) to the Tobacco Use Prevention and Cessation Trust Fund 79649
(Fund H87) an amount equal to the estimate determined pursuant to 79650
this division. 79651

(2) Not later than December 31, 2005, the Director of 79652
Environmental Protection shall certify to the Director of Budget 79653
and Management the actual amount, not to exceed the estimated 79654
amount, necessary for the Auto Emissions Testing Program for the 79655
period beginning January 1, 2006, and ending June 30, 2006. 79656
Notwithstanding section 183.02 of the Revised Code, on January 1, 79657
2006, or as soon as possible thereafter, the Director of Budget 79658
and Management shall transfer the amount certified pursuant to 79659
this division from the Tobacco Master Settlement Agreement Fund 79660
(Fund 087) to the Auto Emissions Test Fund (Fund 5BY). Amounts 79661
transferred are hereby appropriated to appropriation item 715-681, 79662
Auto Emissions Test, in the Environmental Protection Agency. 79663

(3) On January 1, 2006, or as soon as possible thereafter, 79664
the Director of Budget and Management shall transfer to the 79665
Tobacco Use Prevention and Cessation Trust Fund (Fund H87) any 79666
amount withheld from being transferred to the Tobacco Use 79667
Prevention and Cessation Trust Fund pursuant to division (B)(1) of 79668
this section that is greater than the amount that is transferred 79669
under division (B)(2) of this section. 79670

(C) An amount equal to the remaining balance in appropriation 79671
item 715-681, Auto Emissions Test, from fiscal year 2006 is hereby 79672
appropriated for fiscal year 2007 into appropriation item 715-681, 79673
Auto Emissions Test. 79674

(D) Not later than June 30, 2006, the Director of Environmental Protection shall certify to the Director of Budget and Management the amount needed for the Auto Emissions Testing Program for fiscal year 2007 taking into account the amounts appropriated for fiscal year 2007 pursuant to division (C) of this section.

Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash equal to the amount certified pursuant to this division from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BY) in the Environmental Protection Agency. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2006, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BY) under this division. Amounts transferred are hereby appropriated to appropriation item 715-681, Auto Emissions Test, in the Environmental Protection Agency.

(E) Not later than July 31, 2007, the Director of Budget and Management shall transfer the unencumbered cash balance of the Auto Emissions Test Fund (Fund 5BY) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87).

(F) The funds identified in this section shall not be used to cover the testing costs of any dealers that are required to provide passing certificates under section 3704.14 of the Revised Code or to provide more than two free tests for any vehicle in a three-hundred-sixty-five-day period. The cost of testing and

retesting for any vehicle shall not exceed the contracted amount 79707
per test. 79708

NPDES TRANSFER TO AGRICULTURE 79709

On or after the date on which the United States Environmental 79710
Protection Agency approves the state program submitted under 79711
division (A)(1) of section 903.08 of the Revised Code, the 79712
Director of Environmental Protection, the Director of Agriculture, 79713
and the Director of Budget and Management shall calculate the 79714
amount of compensation to be made to the Environmental Protection 79715
Agency and to the Department of Agriculture from federal moneys 79716
disbursed and received for purposes of administering the National 79717
Pollutant Discharge Elimination System (NPDES) Program and shall 79718
calculate the amount of state matching funding that is required 79719
for administering that program. The Environmental Protection 79720
Agency and the Department of Agriculture may apply separately to 79721
the United States Environmental Protection Agency for each 79722
agency's respective share of the federal moneys. If the United 79723
States Environmental Protection Agency awards all federal moneys 79724
for administration of the NPDES program to one agency, that agency 79725
shall transfer the appropriate amount of moneys to the other 79726
agency in accordance with the calculations of compensation made 79727
pursuant to these provisions. 79728

CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND 79729

On July 1, 2005, or as soon as possible thereafter, the 79730
Director of Budget and Management may transfer \$1,000,000 in cash 79731
from the Central Support Indirect Fund (Fund 219) into the 79732
Environmental Protection Fund (Fund 5BC). 79733

On July 1, 2005, or as soon as possible thereafter, the 79734
Director of Budget and Management may transfer \$6,000,000 in cash 79735
from the Hazardous Waste Facility Management Fund (Fund 503) into 79736
the Environmental Protection Fund (Fund 5BC). 79737

On July 1, 2005, or as soon as possible thereafter, the 79738
 Director of Budget and Management may transfer \$3,000,000 in cash 79739
 from the Solid Waste Fund (Fund 4K3) into the Environmental 79740
 Protection Fund (Fund 5BC). 79741

On July 1, 2005, or as soon as possible thereafter, the 79742
 Director of Budget and Management may transfer \$1,000,000 in cash 79743
 from the Hazardous Waste Cleanup Fund (Fund 505) into the 79744
 Environmental Protection Fund (Fund 5BC). 79745

Section 206.30. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 79746

General Revenue Fund 79747
 GRF 172-321 Operating Expenses \$ 479,161 \$ 483,859 79748
 TOTAL GRF General Revenue Fund \$ 479,161 \$ 483,859 79749
 TOTAL ALL BUDGET FUND GROUPS \$ 479,161 \$ 483,859 79750

Section 206.31. ETC ETECH OHIO 79752

General Revenue Fund 79753
 GRF 935-321 Operations \$ 7,174,453 \$ 6,830,918 79754
 GRF 935-401 Statehouse News Bureau \$ 244,400 \$ 244,400 79755
 GRF 935-402 Ohio Government \$ 716,417 \$ 716,417 79756
 Telecommunications
 Studio
 GRF 935-403 Technical Operations \$ 1,768,150 \$ 1,768,150 79757
 GRF 935-404 Telecommunications \$ 3,632,413 \$ 3,632,413 79758
 Operating Subsidy
 GRF 935-406 Technical and \$ 6,484,763 \$ 6,607,144 79759
 Instructional
 Professional
 Development
 GRF 935-539 Educational Technology \$ 5,968,791 \$ 5,968,791 79760
 TOTAL GRF General Revenue Fund \$ 25,989,387 \$ 25,768,233 79761
 General Services Fund Group 79762

4F3	935-603	Affiliate Services	\$	2,000,000	\$	2,000,000	79763
4T2	935-605	Government	\$	150,000	\$	150,000	79764
		Television/Telecommunications					
		Operating					
5D4	935-640	Conference/Special	\$	1,600,645	\$	1,821,817	79765
		Purposes					
TOTAL GSF		General Services Fund	\$	3,750,645	\$	3,971,817	79766
		Group					
		Federal Special Revenue Fund Group					79767
3S3	935-606	Enhancing Education	\$	589,363	\$	589,363	79768
		Technology					
TOTAL FED		Federal Special Revenue	\$	589,363	\$	589,363	79769
		Fund Group					
		State Special Revenue Fund Group					79770
4W9	935-630	Telecommunity	\$	50,000	\$	25,000	79771
4X1	935-634	Distance Learning	\$	250,000	\$	100,000	79772
5T3	935-607	Gates Foundation	\$	600,000	\$	200,000	79773
		Grants					
TOTAL SSR		State Special Revenue	\$	900,000	\$	325,000	79774
		Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	31,229,395	\$	30,654,413	79775

Section 206.31.03. OPERATIONS 79777

eTech Ohio shall enter into an agreement with the Department 79778
of Administrative Services to provide for the maintenance of all 79779
of its towers. eTech Ohio and the Department of Administrative 79780
Services shall develop a plan to address the best method for 79781
transferring ownership and control of all the towers to the 79782
Department of Administrative Services. This plan shall be 79783
submitted to the Office of Budget and Management by July 1, 2006. 79784

Section 206.31.06. TELECOMMUNICATIONS 79785

STATEHOUSE NEWS BUREAU	79786
The foregoing appropriation item 935-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.	79787 79788 79789
OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO	79790
The foregoing appropriation item 935-402, Ohio Government Telecommunications Studio, shall be used solely to support the operations of the Ohio Government Telecommunications Studio.	79791 79792 79793
TECHNICAL OPERATIONS	79794
The foregoing appropriation item 935-403, Technical Operations, shall be used by eTech Ohio to pay expenses of the television and radio transmission infrastructure.	79795 79796 79797
TELECOMMUNICATIONS OPERATING SUBSIDY	79798
Of the foregoing appropriation item 935-404, Telecommunications Operating Subsidy, \$45,000 in each fiscal year shall be used to contract for dial-up newspaper reading services for the blind and physically handicapped. The contract shall be awarded through a competitive bidding process. eTech Ohio shall not disburse these funds without prior approval of the Controlling Board.	79799 79800 79801 79802 79803 79804 79805
The remainder of appropriation item 935-404, Telecommunications Operating Subsidy, shall be distributed by eTech Ohio to Ohio's qualified public educational television stations, radio reading services, and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation formula developed by eTech Ohio.	79806 79807 79808 79809 79810 79811
Section 206.31.09. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT	79812 79813
The foregoing appropriation item 935-406, Technical and	79814

Instructional Professional Development, shall be used by eTech 79815
Ohio to make grants or provide services to qualifying public 79816
schools, including the State School for the Blind and the State 79817
School for the Deaf, and the Ohio Department of Youth Services, 79818
for the provision of hardware, software, telecommunications 79819
services, and staff development to support educational uses of 79820
technology in the classroom. eTech Ohio shall consider the 79821
professional development needs associated with the OhioReads 79822
Program when making funding allocations and program decisions. 79823

Of the foregoing appropriation item 935-406, Technical and 79824
Instructional Professional Development, up to \$200,000 in each 79825
fiscal year shall be used by eTech Ohio to provide competitive 79826
professional development grants to school districts. Grant 79827
proposals shall focus on developing innovative programs that 79828
enhance the abilities of teachers to use innovative methods for 79829
integrating technology to implement state academic content 79830
standards in classroom lessons. Grant requirements and awards 79831
shall be approved by eTech Ohio, with priority given to school 79832
districts designated in academic emergency, academic watch, or 79833
continuous improvement. eTech Ohio shall develop a website to 79834
share information learned through these programs with school 79835
districts statewide. The website shall be linked with the Ohio 79836
Department of Education's Instructional Management System. 79837

Of the foregoing appropriation item 935-406, Technical and 79838
Instructional Professional Development, up to \$1,260,000 in each 79839
fiscal year shall be allocated equally among the 12 Ohio 79840
educational television stations and used with the advice and 79841
approval of eTech Ohio. Funds shall be used for the production of 79842
interactive instructional programming series with priority given 79843
to resources aligned with state academic content standards in 79844
consultation with the Ohio Department of Education and for 79845
teleconferences to support eTech Ohio. The programming shall be 79846

targeted to the needs of the poorest two hundred school districts 79847
as determined by the district's adjusted valuation per pupil as 79848
defined in section 3317.0213 of the Revised Code as that section 79849
existed prior to the effective date of this section. 79850

The remainder of appropriation item 935-406, Technical and 79851
Instructional Professional Development, shall be used by eTech 79852
Ohio for professional development for teachers and administrators 79853
for the use of educational technology. eTech Ohio may make grants 79854
to provide technical assistance and professional development on 79855
the use of educational technology to school districts. 79856

Eligible recipients of grants include regional training 79857
centers, educational service centers, data acquisition sites, 79858
instructional technology centers, institutions of higher 79859
education, public television stations, special education resource 79860
centers, area media centers, or other nonprofit educational 79861
organizations. In addition, services provided through these grants 79862
may include use of private entities subcontracting through the 79863
grant recipient. 79864

Grants shall be made to entities on a contractual basis with 79865
eTech Ohio. Contracts shall include provisions that demonstrate 79866
how services will benefit technology use in the public schools, 79867
and in particular how services will support eTech Ohio's efforts 79868
to integrate technology in the public schools. Contracts shall 79869
specify the scope of assistance being offered and the potential 79870
number of professionals who will be served. Contracting entities 79871
may be awarded more than one grant at a time. Grants shall be 79872
awarded in a manner consistent with the goals and priorities of 79873
eTech Ohio. Special emphasis in the award of grants shall be 79874
placed on collaborative efforts among service providers. 79875

Application for grants from appropriation item 935-406, 79876
Technical and Instructional Professional Development, shall be 79877

consistent with a school district's technology plan that shall 79878
meet the minimum specifications for school district technology 79879
plans as prescribed by eTech Ohio. Funds allocated through these 79880
grants may be combined with funds received through other state or 79881
federal grants for technology so long as the school district's 79882
technology plan specifies the use of these funds. 79883

Section 206.31.12. EDUCATION TECHNOLOGY 79884

The foregoing appropriation item 935-539, Education 79885
Technology, shall be used to provide funding to suppliers of 79886
information services to school districts for the provision of 79887
hardware, software, and staff development in support of 79888
educational uses of technology in the classroom as prescribed by 79889
the State Plan for Technology pursuant to section 3301.07 of the 79890
Revised Code, and to support assistive technology for children and 79891
youth with disabilities. 79892

Of the foregoing appropriation item 935-539, Education 79893
Technology, up to \$1,829,240 in each fiscal year shall be used by 79894
eTech Ohio to link all public K-12 classrooms to each other and 79895
the Internet, and to provide access to voice, video, and data 79896
educational resources for students and teachers through the OneNet 79897
Ohio Program. 79898

Up to \$4,139,551 in each fiscal year shall be used by eTech 79899
Ohio to contract with instructional television to provide Ohio 79900
public schools with instructional resources and services with 79901
priority given to resources and services aligned with state 79902
academic content standards and such resources and services shall 79903
be based upon the advice and approval of eTech Ohio. 79904

Resources may include, but not be limited to, the following: 79905
prerecorded video materials (including videotape, laser discs, and 79906
CD-ROM discs); computer software for student use or student access 79907

to electronic communication, databases, spreadsheet, and word 79908
processing capability; live student courses or courses delivered 79909
electronically; automated media systems; and instructional and 79910
professional development materials for teachers. eTech Ohio shall 79911
cooperate with education technology agencies in the acquisition, 79912
development, and delivery of such educational resources to ensure 79913
high-quality and educational soundness at the lowest possible 79914
cost. Delivery of such resources may utilize a variety of 79915
technologies, with preference given to a high-speed integrated 79916
information network that can transport video, voice, data, and 79917
graphics simultaneously. 79918

Services shall include presentations and technical assistance 79919
that will help students and teachers integrate educational 79920
materials that support curriculum objectives, match specific 79921
learning styles, and are appropriate for individual interests and 79922
ability levels. 79923

Such instructional resources and services shall be made 79924
available for purchase by chartered nonpublic schools or by school 79925
districts for the benefit of pupils attending chartered nonpublic 79926
schools. 79927

Section 206.31.15. TELECOMMUNITY 79928

The foregoing appropriation item 935-630, Telecommunity, 79929
shall be distributed by eTech Ohio on a grant basis to eligible 79930
school districts to establish "distance learning" through 79931
interactive video technologies in the school district. Per 79932
agreements with eight Ohio local telephone companies: ALLTEL Ohio, 79933
CENTURY Telephone of Ohio, Chillicothe Telephone Company, 79934
Cincinnati Bell Telephone Company, Orwell Telephone Company, 79935
Sprint North Central Telephone, VERIZON, and Western Reserve 79936
Telephone Company, school districts are eligible for funds if they 79937
are within one of the listed telephone company service areas. 79938

Funds to administer the program shall be expended by eTech Ohio up to the amount specified in agreements with the listed telephone companies. 79939
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Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4W9 in the state special revenue fund group any investment earnings from moneys paid by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond. 79942
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DISTANCE LEARNING 79948

The foregoing appropriation item 935-634, Distance Learning, shall be distributed by eTech Ohio on a grant basis to eligible school districts to establish "distance learning" in the school district. Per the agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in the agreement with Ameritech. 79949
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Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to fund 4X1 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995. 79956
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GATES FOUNDATION GRANTS 79962

The foregoing appropriation item 935-607, Gates Foundation Grants, shall be used by eTech Ohio to provide professional development to school district principals, superintendents, and other administrative staff for the use of education technology. 79963
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Section 206.33. ETH OHIO ETHICS COMMISSION 79967

General Revenue Fund 79968

GRF 146-321 Operating Expenses	\$	1,536,213	\$	1,536,213	79969
TOTAL GRF General Revenue Fund	\$	1,536,213	\$	1,536,213	79970
General Services Fund Group					79971
4M6 146-601 Operating Expenses	\$	502,543	\$	432,543	79972
TOTAL GSF General Services					79973
Fund Group	\$	502,543	\$	432,543	79974
TOTAL ALL BUDGET FUND GROUPS	\$	2,038,756	\$	1,968,756	79975

Section 206.36. EXP OHIO EXPOSITIONS COMMISSION 79977

General Revenue Fund					79978
GRF 723-403 Junior Fair Subsidy	\$	400,000	\$	400,000	79979
TOTAL GRF General Revenue Fund	\$	400,000	\$	400,000	79980
State Special Revenue Fund Group					79981
4N2 723-602 Ohio State Fair	\$	520,000	\$	520,000	79982
Harness Racing					
506 723-601 Operating Expenses	\$	13,643,315	\$	13,643,315	79983
TOTAL SSR State Special Revenue					79984
Fund Group	\$	14,163,315	\$	14,163,315	79985
TOTAL ALL BUDGET FUND GROUPS	\$	14,563,315	\$	14,563,315	79986

Section 206.39. GOV OFFICE OF THE GOVERNOR 79988

General Revenue Fund					79989
GRF 040-321 Operating Expenses	\$	3,981,582	\$	3,981,582	79990
GRF 040-403 Federal Relations	\$	422,760	\$	422,760	79991
GRF 040-408 Office of Veterans'	\$	267,923	\$	267,923	79992
Affairs					
TOTAL GRF General Revenue Fund	\$	4,672,265	\$	4,672,265	79993
General Services Fund Group					79994
5AK 040-607 Federal Relations	\$	354,514	\$	354,514	79995
TOTAL GSF General Services Fund	\$	354,514	\$	354,514	79996
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	5,026,779	\$	5,026,779	79997

APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR	79998
The Governor may expend a portion of the foregoing	79999
appropriation item 040-321, Operating Expenses, to hire or appoint	80000
legal counsel to be used in proceedings involving the Governor in	80001
the Governor's official capacity or the Governor's office only,	80002
without the approval of the Attorney General, notwithstanding	80003
sections 109.02 and 109.07 of the Revised Code.	80004
FEDERAL RELATIONS	80005
A portion of the foregoing appropriation items 040-403,	80006
Federal Relations, and 040-607, Federal Relations, may be used to	80007
support Ohio's membership in national or regional associations.	80008
The Office of the Governor may charge any state agency of the	80009
executive branch using an intrastate transfer voucher such amounts	80010
necessary to defray the costs incurred for the conduct of federal	80011
relations associated with issues that can be attributed to the	80012
agency. Amounts collected shall be deposited to the Office of the	80013
Governor Federal Relations Fund (Fund 5AK).	80014
Section 206.42. DOH DEPARTMENT OF HEALTH	80015
General Revenue Fund	80016
GRF 440-407 Animal Borne Disease \$ 2,452,101 \$ 2,452,101	80017
and Prevention	
GRF 440-412 Cancer Incidence \$ 1,002,619 \$ 1,002,619	80018
Surveillance System	
GRF 440-413 Local Health \$ 3,786,794 \$ 3,786,794	80019
Department Support	
GRF 440-416 Child and Family \$ 9,532,874 \$ 9,532,874	80020
Health Services	
GRF 440-418 Immunizations \$ 8,600,615 \$ 8,600,615	80021
GRF 440-XXX Free Clinic Liability \$ 275,000 \$ 325,000	80022
Insurance	

GRF 440-444	AIDS Prevention and Treatment	\$	7,158,127	\$	7,158,127	80023
GRF 440-446	Infectious Disease Prevention	\$	200,000	\$	200,000	80024
GRF 440-451	Lab and Public Health Prevention Programs	\$	6,085,250	\$	6,085,250	80025
GRF 440-452	Child and Family Health Services Match	\$	1,024,017	\$	1,024,017	80026
GRF 440-453	Health Care Quality Assurance	\$	10,253,728	\$	10,253,728	80027
GRF 440-454	Local Environmental Health	\$	889,752	\$	889,752	80028
GRF 440-459	Help Me Grow	\$	9,323,797	\$	9,323,797	80029
GRF 440-461	Center for Vital and Health Stats	\$	3,629,535	\$	3,629,535	80030
GRF 440-505	Medically Handicapped Children	\$	9,591,784	\$	8,791,784	80031
GRF 440-507	Targeted Health Care Services Over 21	\$	1,631,023	\$	1,631,023	80032
TOTAL GRF	General Revenue Fund	\$	75,437,016	\$	74,687,016	80033
	General Services Fund Group					80034
142 440-618	Agency Health Services	\$	2,461,915	\$	2,561,915	80035
211 440-613	Central Support Indirect Costs	\$	26,584,707	\$	26,584,707	80036
473 440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	80037
683 440-633	Employee Assistance Program	\$	1,208,214	\$	1,208,214	80038
698 440-634	Nurse Aide Training	\$	170,000	\$	170,000	80039
TOTAL GSF	General Services Fund Group					80040
		\$	34,578,881	\$	34,678,881	80041
	Federal Special Revenue Fund Group					80042
320 440-601	Maternal Child Health	\$	28,779,322	\$	29,025,635	80043

		Block Grant					
387	440-602	Preventive Health	\$	7,755,005	\$	7,826,659	80044
		Block Grant					
389	440-604	Women, Infants, and Children	\$	219,920,083	\$	230,077,451	80045
391	440-606	Medicaid/Medicare	\$	24,211,198	\$	24,850,959	80046
392	440-618	Federal Public Health Programs	\$	126,678,202	\$	127,677,458	80047
	TOTAL FED	Federal Special Revenue					80048
	Fund Group		\$	407,343,810	\$	419,458,162	80049
	State Special Revenue	Fund Group					80050
4D6	440-608	Genetics Services	\$	2,617,000	\$	2,617,000	80051
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344	80052
4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000	80053
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000	80054
4L3	440-609	Non-Governmental Grants and Awards	\$	144,119	\$	144,119	80055
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894	80056
4V6	440-641	Save Our Sight	\$	1,767,994	\$	1,767,994	80057
470	440-618	Fee Supported Programs	\$	16,025,194	\$	16,025,194	80058
471	440-619	Certificate of Need	\$	581,572	\$	594,572	80059
477	440-627	Medically Handicapped Children Audit	\$	3,800,000	\$	3,693,016	80060
5BL	440-638	Healthy Ohioans	\$	5,000,000	\$	0	80061
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479	80062
5CB	440-640	Poison Control Centers	\$	200,000	\$	200,000	80063
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	80064
5D6	440-620	Second Chance Trust	\$	1,054,951	\$	1,054,951	80065

5G4	440-639	Adoption Services	\$	20,000	\$	20,000	80066
5L1	440-623	Nursing Facility	\$	617,517	\$	617,517	80067
		Technical Assistance Program					
610	440-626	Radiation Emergency Response	\$	850,000	\$	850,000	80068
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687	80069
TOTAL SSR State Special Revenue							80070
Fund Group			\$	50,572,156	\$	45,478,172	80071
Holding Account Redistribution Fund Group							80072
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	80073
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000	80074
TOTAL 090 Holding Account							80075
Redistribution Fund Group			\$	90,000	\$	90,000	80076
TOTAL ALL BUDGET FUND GROUPS			\$	568,021,863	\$	574,392,231	80077

Section 206.42.03. CHILD AND FAMILY HEALTH SERVICES 80079

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$1,700,000 in each fiscal year shall be used for women's health services. 80080
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Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program. 80083
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Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons. 80086
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Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cincinnati, \$10,000 shall be allocated in each fiscal year to the Jewish Family Services in Columbus, and \$10,000 in each fiscal year shall be allocated to the Wexner Heritage Village in Columbus for interpreters for health care.

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.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$450,000 in each fiscal year shall be allocated to the Visiting Nurse Association.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$16,667 in each fiscal year shall be allocated to

the Yassenoff Jewish Community Center, \$16,667 in each fiscal year 80122
shall be allocated to the Jewish Community Center in Cincinnati, 80123
and \$16,666 in each fiscal year shall be allocated to the Jewish 80124
Community Center in Cleveland for children's health and nutrition 80125
camp programs. 80126

Of the foregoing appropriation item 440-416, Child and Family 80127
Health Services, \$25,000 in each fiscal year shall be allocated to 80128
Clermont County's Comprehensive Community Suicide Prevention 80129
Program. 80130

Section 206.42.06. WOMEN'S HEALTH SERVICES 80131

None of the funds received through grants for women's health 80132
services under this section from the foregoing appropriation item 80133
440-416, Child and Family Health Services, shall be used to 80134
provide abortion services. None of the funds received through 80135
these grants shall be used for counseling for or referrals for 80136
abortion, except in the case of a medical emergency. These funds 80137
shall be distributed by the Director of Health to programs that 80138
the Department of Health determines will provide services that are 80139
physically and financially separate from abortion-providing and 80140
abortion-promoting activities, and that do not include counseling 80141
for or referrals for abortion, other than in the case of medical 80142
emergency. 80143

These women's health services include and are limited to the 80144
following: pelvic examinations and laboratory testing; breast 80145
examinations and patient education on breast cancer; screening for 80146
cervical cancer; screening and treatment for Sexually Transmitted 80147
Diseases (STDs) and HIV screening; voluntary choice of 80148
contraception, including abstinence and natural family planning; 80149
patient education and pre-pregnancy counseling on the dangers of 80150
smoking, alcohol, and drug use during pregnancy; education on 80151
sexual coercion and violence in relationships; and prenatal care 80152

or referral for prenatal care. These health care services shall be 80153
provided by licensed doctors, licensed nurses, licensed medical 80154
assistants, licensed counselors, and licensed social workers in a 80155
medical clinic setting. 80156

The Director of Health shall adopt rules under Chapter 119. 80157
of the Revised Code specifying reasonable eligibility standards 80158
that must be met to receive the state funding and provide 80159
reasonable methods by which a grantee wishing to be eligible for 80160
federal funding may comply with these requirements for state 80161
funding without losing its eligibility for federal funding. 80162

Each applicant for these funds shall provide sufficient 80163
assurance to the Director of Health of all of the following: 80164

(A) The program shall not discriminate in the provision of 80165
services based on an individual's religion, race, national origin, 80166
handicapping condition, age, sex, number of pregnancies, or 80167
marital status; 80168

(B) The program shall provide services without subjecting 80169
individuals to any coercion to accept services or to employ any 80170
particular methods of family planning; 80171

(C) Acceptance of services shall be solely on a voluntary 80172
basis and may not be made a prerequisite to eligibility for, or 80173
receipt of, any other service, assistance from, or participation 80174
in, any other program of the service provider; 80175

(D) The costs for services provided by the program, if any 80176
are charged, shall be based on the patient's ability to pay and 80177
priority in the provision of services shall be given to persons 80178
from low-income families. 80179

In distributing these grant funds, the Director of Health 80180
shall give priority to grant requests from local departments of 80181
health for women's health services to be provided directly by 80182

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.

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.

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. FREE CLINIC LIABILITY INSURANCE 80214

Of the foregoing appropriation item 440-XXX, Free Clinic 80215
Liability Insurance, up to \$20,000 in each fiscal year may be used 80216
by the Department of Health for administrative expenses related to 80217
the Medical Liability Insurance Reimbursement Program. The 80218
remainder in each fiscal year shall be used to pay for medical 80219
liability insurance for free clinics, including the clinics' staff 80220
and volunteer health care professionals and volunteer health care 80221
workers. The necessity and feasibility of the program shall be 80222
reviewed as part of the next biennial budget. 80223

HIV/AIDS PREVENTION/TREATMENT 80224

Of the foregoing appropriation item 440-444, AIDS Prevention 80225
and Treatment, not more than \$6.7 million per fiscal year shall be 80226
used to assist persons with HIV/AIDS in acquiring HIV-related 80227
medications. 80228

INFECTIOUS DISEASE PREVENTION 80229

The foregoing appropriation item 440-446, Infectious Disease 80230
Prevention, shall be used for the purchase of drugs for sexually 80231
transmitted diseases. 80232

HELP ME GROW 80233

The foregoing appropriation item 440-459, Help Me Grow, shall 80234
be used by the Department of Health to distribute subsidies to 80235
counties to implement the Help Me Grow Program. Appropriation item 80236
440-459, Help Me Grow, may be used in conjunction with Temporary 80237
Assistance for Needy Families from the Department of Job and 80238
Family Services, Early Intervention funding from the Department of 80239
Mental Retardation and Developmental Disabilities, and in 80240
conjunction with other early childhood funds and services to 80241
promote the optimal development of young children. Local contracts 80242
shall be developed between local departments of job and family 80243

services and family and children first councils for the 80244
administration of TANF funding for the Help Me Grow Program. The 80245
Department of Health shall enter into an interagency agreement 80246
with the Department of Education, Department of Mental Retardation 80247
and Developmental Disabilities, Department of Job and Family 80248
Services, and Department of Mental Health to ensure that all early 80249
childhood programs and initiatives are coordinated and school 80250
linked. 80251

TARGETED HEALTH CARE SERVICES OVER 21 80252

In each fiscal year, of the foregoing appropriation item 80253
440-507, Targeted Health Care Services Over 21, \$731,023 shall be 80254
used to administer the cystic fibrosis program and implement the 80255
Hemophilia Insurance Premium Payment Program. 80256

Of the foregoing appropriation item 440-507, Targeted Health 80257
Care Services Over 21, \$900,000 in each fiscal year shall be used 80258
to provide essential medications for the cystic fibrosis program. 80259

MATERNAL CHILD HEALTH BLOCK GRANT 80260

Of the foregoing appropriation item 440-601, Maternal Child 80261
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 80262
fiscal year for the purposes of abstinence-only education. The 80263
Director of Health shall develop guidelines for the establishment 80264
of abstinence programs for teenagers with the purpose of 80265
decreasing unplanned pregnancies and abortion. The guidelines 80266
shall be developed under Title V of the "Social Security Act," 42 80267
U.S.C. 510, and shall include, but are not limited to, advertising 80268
campaigns and direct training in schools and other locations. 80269

GENETICS SERVICES 80270

The foregoing appropriation item 440-608, Genetics Services 80271
(Fund 4D6), shall be used by the Department of Health to 80272
administer programs authorized by sections 3701.501 and 3701.502 80273

of the Revised Code. None of these funds shall be used to counsel	80274
or refer for abortion, except in the case of a medical emergency.	80275
SAFETY AND QUALITY OF CARE STANDARDS	80276
The Department of Health may use Fund 471, Certificate of	80277
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of	80278
the Revised Code in each fiscal year.	80279
MEDICALLY HANDICAPPED CHILDREN AUDIT	80280
The Medically Handicapped Children Audit Fund (Fund 477)	80281
shall receive revenue from audits of hospitals and recoveries from	80282
third-party payers. Moneys may be expended for payment of audit	80283
settlements and for costs directly related to obtaining recoveries	80284
from third-party payers and for encouraging Medically Handicapped	80285
Children's Program recipients to apply for third-party benefits.	80286
Moneys also may be expended for payments for diagnostic and	80287
treatment services on behalf of medically handicapped children, as	80288
defined in division (A) of section 3701.022 of the Revised Code,	80289
and Ohio residents who are twenty-one or more years of age and who	80290
are suffering from cystic fibrosis or hemophilia. Moneys may also	80291
be expended for administrative expenses incurred in operating the	80292
Medically Handicapped Children's Program.	80293
CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND	80294
PERMIT FUND	80295
The Director of Budget and Management, pursuant to a plan	80296
submitted by the Department of Health, or as otherwise determined	80297
by the Director of Budget and Management, shall set a schedule to	80298
transfer cash from the Liquor Control Fund (Fund 043) to the	80299
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating	80300
needs of the Alcohol Testing and Permit program.	80301
The Director of Budget and Management shall transfer to the	80302
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control	80303

Fund (Fund 043) created in section 4301.12 of the Revised Code	80304
such amounts at such times as determined by the transfer schedule.	80305
MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS	80306
The foregoing appropriation item 440-607, Medically	80307
Handicapped Children - County Assessments (Fund 666), shall be	80308
used to make payments under division (E) of section 3701.023 of	80309
the Revised Code.	80310
Section 206.42.12. MEDICALLY HANDICAPPED CHILDREN - FUTURE	80311
FUNDING	80312
(A) There is hereby created the Legislative Committee on the	80313
Future Funding of the Bureau for Children with Medical Handicaps.	80314
The Speaker of the House of Representatives shall appoint three	80315
members of the House of Representatives, not more than two of whom	80316
shall belong to the same political party as the Speaker. The	80317
President of the Senate shall appoint three members of the Senate,	80318
not more than two of whom shall belong to the same political party	80319
as the President. The Speaker of the House of Representatives and	80320
the President of the Senate shall each appoint three members of	80321
the general public who suffer from a disease or disorder covered	80322
by the Program for Medically Handicapped Children (otherwise known	80323
as the Bureau for Children with Medical Handicaps) in the Ohio	80324
Department of Health, or family members of such individuals. The	80325
following also shall serve on the Committee:	80326
(1) The Director of Health, or the Director's designee;	80327
(2) The Superintendent of Insurance, or the Superintendent's	80328
designee;	80329
(3) The Director of Job and Family Services, or the	80330
Director's designee;	80331
(4) One person designated by the County Commissioners	80332
Association of Ohio;	80333

(5) One person designated by the Ohio Children's Hospital Association;	80334 80335
(6) One person designated by the Ohio Association of Health Plans;	80336 80337
(7) One person designated by the American Academy of Pediatrics;	80338 80339
(8) One person designated by the Ohio hospital association;	80340
(9) One person designated by the Ohio association of health commissioners;	80341 80342
(10) One person designated by the Ohio nurses association.	80343
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.	80344 80345 80346
(B) Members of the Committee shall receive no compensation.	80347
(C) The Committee shall do all of the following:	80348
(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;	80349 80350 80351
(2) Review all existing statutes and rules in Ohio pertaining to the Program;	80352 80353
(3) Review payment strategies in other states that facilitate adequate care for children with chronic conditions and support their families;	80354 80355 80356
(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;	80357 80358 80359 80360 80361
(5) Request testimony from parents of children with special	80362

health needs and the children themselves and from health care 80363
professionals and other individuals who provide services to Bureau 80364
patients; 80365

(D) Not later than December 31, 2006, the Committee shall 80366
make recommendations and submit a report to the Governor, the 80367
President and Minority Leader of the Senate, and the Speaker and 80368
Minority Leader of the House of Representatives. The report shall 80369
include an analysis of the current system of services covered by 80370
the Program and may include determinations and recommendations 80371
regarding how the state can best address the current and future 80372
needs of patients served by the Program. On submission of the 80373
report, the Committee shall cease to exist. 80374

**Section 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR 80375
MEDICALLY HANDICAPPED CHILDREN 80376**

Not later than December 1, 2005, the Public Health Council 80377
shall revise rule 3701-43-16 of the Administrative Code regarding 80378
financial eligibility for payment for treatment under the Program 80379
for Medically Handicapped Children. As part of the revision, the 80380
Public Health Council shall return the financial eligibility 80381
levels for fiscal years 2006 and 2007 to the levels in effect 80382
prior to October 13, 2003. 80383

Beginning July 1, 2005, the Department of Health shall 80384
contact all persons who lost eligibility for the Program for 80385
Medically Handicapped Children or their parents or guardians to 80386
inform them of revisions made to the Program's eligibility rules. 80387

**Section 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE 80388
PROGRAM 80389**

The Director of Budget and Management shall transfer, by 80390
intrastate transfer voucher, each fiscal year, cash from Fund 4E3, 80391
Resident Protection Fund, in the Ohio Department of Job and Family 80392

Services, to Fund 5L1, Nursing Facility Technical Assistance 80393
Program Fund, in the Ohio Department of Health, to be used under 80394
section 3721.026 of the Revised Code. The transfers shall equal 80395
\$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007. 80396

Section 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND 80397
(FUND 546) TO THE POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT 80398
OF HEALTH 80399

Notwithstanding section 3737.71 of the Revised Code, on July 80400
1, 2005, or as soon as possible thereafter, the Director of Budget 80401
and Management shall transfer \$200,000 cash from the State Fire 80402
Marshal's Fund (Fund 546) in the Department of Commerce to the 80403
Poison Control Fund (Fund 5CB) in the Department of Health, which 80404
is hereby created. Notwithstanding section 3737.71 of the Revised 80405
Code, on July 1, 2006, or as soon as possible thereafter, the 80406
Director of Budget and Management shall transfer \$200,000 cash 80407
from the State Fire Marshal's Fund (Fund 546) in the Department of 80408
Commerce to the Poison Control Fund (Fund 5CB) in the Department 80409
of Health. 80410

POISON CONTROL CENTERS 80411

Of the foregoing appropriation item 440-640, Poison Control 80412
Centers, in each fiscal year, the poison control centers in the 80413
municipal corporations of Cleveland, Cincinnati, Columbus, and 80414
Dayton shall each receive an allocation of \$50,000. 80415

Section 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 80416
Agency Fund Group 80417
461 372-601 Operating Expenses \$ 16,819 \$ 16,819 80418
TOTAL AGY Agency Fund Group \$ 16,819 \$ 16,819 80419
TOTAL ALL BUDGET FUND GROUPS \$ 16,819 \$ 16,819 80420

Section 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 80422

General Revenue Fund				80423
GRF 148-100 Personal Services	\$	145,880	\$ 145,880	80424
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	80425
TOTAL GRF General Revenue Fund	\$	181,781	\$ 181,781	80426
General Services Fund Group				80427
601 148-602 Gifts and Miscellaneous	\$	5,000	\$ 5,000	80428
TOTAL GSF General Services Fund Group	\$	5,000	\$ 5,000	80430
TOTAL ALL BUDGET FUND GROUPS	\$	186,781	\$ 186,781	80431

Section 206.51. OHS OHIO HISTORICAL SOCIETY 80433

General Revenue Fund				80434
GRF 360-501 Operating Subsidy	\$	3,288,274	\$ 3,288,274	80435
GRF 360-502 Site Operations	\$	8,388,725	\$ 8,388,725	80436
GRF 360-504 Ohio Preservation Office	\$	281,041	\$ 281,041	80437
GRF 360-505 Afro-American Museum	\$	754,884	\$ 754,884	80438
GRF 360-506 Hayes Presidential Center	\$	509,231	\$ 509,231	80439
GRF 360-508 Historical Grants	\$	1,185,000	\$ 1,185,000	80440
TOTAL GRF General Revenue Fund	\$	14,407,155	\$ 14,407,155	80441
TOTAL ALL BUDGET FUND GROUPS	\$	14,407,155	\$ 14,407,155	80442

SUBSIDY APPROPRIATION 80443

Upon approval by the Director of Budget and Management, the 80444
foregoing appropriation items shall be released to the Ohio 80445
Historical Society in quarterly amounts that in total do not 80446
exceed the annual appropriations. The funds and fiscal records of 80447
the society for fiscal years 2006 and 2007 shall be examined by 80448
independent certified public accountants approved by the Auditor 80449
of State, and a copy of the audited financial statements shall be 80450

filed with the Office of Budget and Management. The society shall 80451
prepare and submit to the Office of Budget and Management the 80452
following: 80453

(A) An estimated operating budget for each fiscal year of the 80454
biennium. The operating budget shall be submitted at or near the 80455
beginning of each calendar year. 80456

(B) Financial reports, indicating actual receipts and 80457
expenditures for the fiscal year to date. These reports shall be 80458
filed at least semiannually during the fiscal biennium. 80459

The foregoing appropriations shall be considered to be the 80460
contractual consideration provided by the state to support the 80461
state's offer to contract with the Ohio Historical Society under 80462
section 149.30 of the Revised Code. 80463

HAYES PRESIDENTIAL CENTER 80464

If a United States government agency, including, but not 80465
limited to, the National Park Service, chooses to take over the 80466
operations or maintenance of the Hayes Presidential Center, in 80467
whole or in part, the Ohio Historical Society shall make 80468
arrangements with the National Park Service or other United States 80469
government agency for the efficient transfer of operations or 80470
maintenance. 80471

HISTORICAL GRANTS 80472

Of the foregoing appropriation item 360-508, Historical 80473
Grants, \$250,000 in each fiscal year shall be distributed to the 80474
Western Reserve Historical Society in Cleveland. 80475

Of the foregoing appropriation item 360-508, Historical 80476
Grants, \$225,000 in each fiscal year shall be distributed to the 80477
Great Lakes Historical Society in Vermilion. 80478

Of the foregoing appropriation item 360-508, Historical 80479
Grants, \$75,000 in each fiscal year shall be distributed to the 80480

Hebrew Union College in Cincinnati for the Center for Holocaust
and Humanity Education, \$100,000 in each fiscal year shall be
distributed to Art Academy of Cincinnati, \$100,000 in each fiscal
year shall be distributed to the Cincinnati Art Museum, and
\$250,000 in each fiscal year shall be distributed to the
Cincinnati Museum Center.

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Of the foregoing appropriation item 360-508, Historical
Grants, \$25,000 in each fiscal year shall be distributed to the
Roseville Historical Society.

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Of the foregoing appropriation item 360-508, Historical
Grants, \$125,000 in each fiscal year shall be distributed to the
Harbor Heritage Society Steamship Mather in Cleveland.

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Of the foregoing appropriation item 360-508, Historical
Grants, \$35,000 in each fiscal year shall be distributed to the
Castle Farm project in the City of Mason.

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Section 206.54. REP OHIO HOUSE OF REPRESENTATIVES 80496

General Revenue Fund 80497

GRF 025-321 Operating Expenses \$ 20,169,168 \$ 20,370,859 80498

TOTAL GRF General Revenue Fund \$ 20,169,168 \$ 20,370,859 80499

General Services Fund Group 80500

103 025-601 House Reimbursement \$ 1,419,469 \$ 1,419,469 80501

4A4 025-602 Miscellaneous Sales \$ 37,474 \$ 37,474 80502

TOTAL GSF General Services 80503

Fund Group \$ 1,456,943 \$ 1,456,943 80504

TOTAL ALL BUDGET FUND GROUPS \$ 21,626,111 \$ 21,827,802 80505

OPERATING EXPENSES 80506

On July 1, 2005, or as soon as possible thereafter, the Chief
Administrative Officer of the House of Representatives shall
certify to the Director of Budget and Management the total fiscal
year 2005 unencumbered appropriations in appropriation item

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025-321, Operating Expenses. The Chief Administrative Officer may 80511
direct the Director of Budget and Management to transfer an amount 80512
not to exceed the total fiscal year 2005 unencumbered 80513
appropriations to fiscal year 2006 for use within appropriation 80514
item 025-321, Operating Expenses. Additional appropriation 80515
authority equal to the amount certified by the Chief 80516
Administrative Officer is hereby appropriated to appropriation 80517
item 025-321, Operating Expenses, in fiscal year 2006. 80518

On July 1, 2006, or as soon as possible thereafter, the Chief 80519
Administrative Officer of the House of Representatives shall 80520
certify to the Director of Budget and Management the total fiscal 80521
year 2006 unencumbered appropriations in appropriation item 80522
025-321, Operating Expenses. The Chief Administrative Officer may 80523
direct the Director of Budget and Management to transfer an amount 80524
not to exceed the total fiscal year 2006 unencumbered 80525
appropriations to fiscal year 2007 for use within appropriation 80526
item 025-321, Operating Expenses. Additional appropriation 80527
authority equal to the amount certified by the Chief 80528
Administrative Officer is hereby appropriated to appropriation 80529
item 025-321, Operating Expenses, in fiscal year 2007. 80530

Section 206.57. HFA OHIO HOUSING FINANCE AGENCY 80531

General Services Fund Group 80532
5AZ 997-601 Housing Finance Agency \$ 8,100,000 \$ 8,100,000 80533
Personal Services
TOTAL GSF General Services Fund \$ 8,100,000 \$ 8,100,000 80534
Group
TOTAL ALL BUDGET FUND GROUPS \$ 8,100,000 \$ 8,100,000 80535

Section 206.60. IGO OFFICE OF THE INSPECTOR GENERAL 80537

General Revenue Fund 80538
GRF 965-321 Operating Expenses \$ 800,868 \$ 829,085 80539

TOTAL GRF General Revenue Fund	\$	800,868	\$	829,085	80540
General Services Fund Group					80541
4Z3 965-602 Special Investigations	\$	100,000	\$	100,000	80542
TOTAL GSF General Services Fund	\$	100,000	\$	100,000	80543
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	900,868	\$	929,085	80544
SPECIAL INVESTIGATIONS					80545
Of the foregoing appropriation item 965-602, Special					80546
Investigations, up to \$100,000 in each fiscal year may be used for					80547
investigative costs, pursuant to section 121.481 of the Revised					80548
Code.					80549
Section 206.63. INS DEPARTMENT OF INSURANCE					80550
Federal Special Revenue Fund Group					80551
3U5 820-602 OSHIIP Operating Grant	\$	1,080,000	\$	1,080,000	80552
TOTAL FED Federal Special					80553
Revenue Fund Group	\$	1,080,000	\$	1,080,000	80554
State Special Revenue Fund Group					80555
554 820-601 Operating Expenses -	\$	564,754	\$	571,772	80556
OSHIIP					
554 820-606 Operating Expenses	\$	22,654,232	\$	22,832,214	80557
555 820-605 Examination	\$	7,639,581	\$	7,639,581	80558
TOTAL SSR State Special Revenue					80559
Fund Group	\$	30,858,567	\$	31,043,567	80560
TOTAL ALL BUDGET FUND GROUPS	\$	31,938,567	\$	32,123,567	80561
MARKET CONDUCT EXAMINATION					80562
When conducting a market conduct examination of any insurer					80563
doing business in this state, the Superintendent of Insurance may					80564
assess the costs of the examination against the insurer. The					80565
superintendent may enter into consent agreements to impose					80566
administrative assessments or fines for conduct discovered that					80567

may be violations of statutes or rules administered by the 80568
superintendent. All costs, assessments, or fines collected shall 80569
be deposited to the credit of the Department of Insurance 80570
Operating Fund (Fund 554). 80571

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 80572

The Director of Budget and Management, at the request of the 80573
Superintendent of Insurance, may transfer funds from the 80574
Department of Insurance Operating Fund (Fund 554), created by 80575
section 3901.021 of the Revised Code, to the Superintendent's 80576
Examination Fund (Fund 555), created by section 3901.071 of the 80577
Revised Code, only for expenses incurred in examining domestic 80578
fraternal benefit societies as required by section 3921.28 of the 80579
Revised Code. 80580

Section 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 80581

General Revenue Fund 80582

GRF 600-321 Support Services 80583

State \$ 62,797,907 \$ 60,065,397 80584

Federal \$ 8,114,493 \$ 8,454,541 80585

Support Services Total \$ 70,912,400 \$ 68,519,938 80586

GRF 600-410 TANF State \$ 272,619,061 \$ 272,619,061 80587

GRF 600-413 Child Care \$ 84,120,596 \$ 84,120,596 80588

Match/Maintenance of
Effort

GRF 600-416 Computer Projects 80589

State \$ 114,516,710 \$ 117,226,021 80590

Federal \$ 37,579,198 \$ 34,255,465 80591

Computer Projects \$ 152,095,908 \$ 151,481,486 80592

Total

GRF 600-420 Child Support \$ 5,091,446 \$ 5,091,446 80593

Administration

GRF 600-421 Office of Family \$ 4,864,932 \$ 4,864,932 80594

	Stability				
GRF 600-423	Office of Children and Families	\$ 5,408,020	\$ 5,431,690		80595
GRF 600-425	Office of Ohio Health Plans				80596
	State	\$ 24,803,631	\$ 24,054,873		80597
	Federal	\$ 26,539,544	\$ 25,810,409		80598
	Office of Ohio Health Plans Total	\$ 51,343,175	\$ 49,865,282		80599
GRF 600-502	Child Support Match	\$ 16,814,103	\$ 16,814,103		80600
GRF 600-511	Disability Financial Assistance	\$ 22,839,371	\$ 22,839,371		80601
GRF 600-512	Non-TANF Disaster Assistance	\$ 1,000,000	\$ 1,000,000		80602
GRF 600-521	Entitlement Administration - Local	\$ 151,206,401	\$ 151,206,401		80603
GRF 600-523	Children and Families Subsidy	\$ 69,438,543	\$ 69,438,543		80604
GRF 600-525	Health Care/Medicaid				80605
	State	\$ 3,777,442,629	\$ 3,795,940,675		80606
	Federal	\$ 5,652,650,287	\$ 5,731,692,576		80607
	Health Care Total	\$ 9,430,092,916	\$ 9,527,633,251		80608
GRF 600-526	Medicare Part D	\$ 155,349,266	\$ 339,578,325		80609
GRF 600-528	Adoption Services				80610
	State	\$ 33,698,298	\$ 35,516,130		80611
	Federal	\$ 40,331,807	\$ 43,022,485		80612
	Adoption Services Total	\$ 74,030,105	\$ 78,538,615		80613
TOTAL GRF	General Revenue Fund				80614
	State	\$ 4,802,010,914	\$ 5,005,807,564		80615
	Federal	\$ 5,765,215,329	\$ 5,843,235,476		80616
	GRF Total	\$10,567,226,243	\$10,849,043,040		80617
	General Services Fund Group				80618

4A8	600-658	Child Support Collections	\$	26,680,794	\$	26,680,794	80619
4R4	600-665	BCII Services/Fees	\$	36,974	\$	36,974	80620
5C9	600-671	Medicaid Program Support	\$	73,015,021	\$	63,947,536	80621
5N1	600-677	County Technologies	\$	1,000,000	\$	1,000,000	80622
613	600-645	Training Activities	\$	135,000	\$	135,000	80623
TOTAL GSF General Services							80624
Fund Group			\$	100,867,789	\$	91,800,304	80625
Federal Special Revenue Fund Group							80626
3AW	600-675	Faith Based Initiatives	\$	750,000	\$	750,000	80627
3A2	600-641	Emergency Food Distribution	\$	2,600,000	\$	2,800,000	80628
3BB	600-635	Children's Hospitals - Federal	\$	9,000,000	\$	9,000,000	80629
3D3	600-648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524	80630
3F0	600-623	Health Care Federal	\$	616,011,784	\$	771,889,193	80631
3F0	600-650	Hospital Care Assurance Match	\$	343,239,047	\$	343,239,047	80632
3G5	600-655	Interagency Reimbursement	\$	1,364,802,369	\$	1,426,954,440	80633
3H7	600-617	Child Care Federal	\$	208,000,000	\$	208,000,000	80634
3N0	600-628	IV-E Foster Care Maintenance	\$	153,963,142	\$	153,963,142	80635
3S5	600-622	Child Support Projects	\$	534,050	\$	534,050	80636
3V0	600-688	Workforce Investment Act	\$	208,322,037	\$	208,097,948	80637
3V4	600-678	Federal Unemployment Programs	\$	153,435,545	\$	157,202,750	80638
3V4	600-679	Unemployment Compensation Review	\$	3,829,430	\$	3,800,573	80639

Commission - Federal							
3V6	600-689	TANF Block Grant	\$	756,604,142	\$	781,983,200	80640
3W3	600-659	TANF/Title XX Transfer	\$	8,000,000	\$	5,400,000	80641
327	600-606	Child Welfare	\$	33,160,190	\$	33,090,786	80642
331	600-686	Federal Operating	\$	43,966,134	\$	44,929,546	80643
384	600-610	Food Stamps and State	\$	188,238,706	\$	181,250,799	80644
Administration							
385	600-614	Refugee Services	\$	6,083,829	\$	6,542,439	80645
395	600-616	Special	\$	4,567,112	\$	4,564,877	80646
Activities/Child and Family Services							
396	600-620	Social Services Block Grant	\$	120,993,012	\$	121,004,222	80647
397	600-626	Child Support	\$	287,468,576	\$	287,468,576	80648
398	600-627	Adoption Maintenance/ Administration	\$	314,639,519	\$	314,639,519	80649
TOTAL FED Federal Special Revenue							
							80650
Fund Group			\$	4,830,249,148	\$	5,069,145,631	80651
State Special Revenue Fund Group							
							80652
198	600-647	Children's Trust Fund	\$	6,788,522	\$	6,788,522	80653
4A9	600-607	Unemployment Compensation Administration Fund	\$	10,811,527	\$	10,811,527	80654
4A9	600-694	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473	80655
4E3	600-605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914	80656
4E7	600-604	Child and Family Services Collections	\$	1,237,500	\$	300,000	80657
4F1	600-609	Foundation Grants/Child and Family Services	\$	61,420	\$	61,420	80658

4J5	600-613	Nursing Facility Bed Assessments	\$	34,613,984	\$	34,613,984	80659
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000	80660
4K1	600-621	ICF/MR Bed Assessments	\$	20,074,255	\$	20,064,131	80661
4R3	600-687	Banking Fees	\$	800,000	\$	800,000	80662
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	80663
5AA	600-673	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000	80664
5BE	600-693	Child Support Operating	\$	5,000,000	\$	5,000,000	80665
5BG	600-653	Managed Care Assessment	\$	18,795,483	\$	99,410,121	80666
5CR	600-636	Children's Hospitals - State	\$	6,000,000	\$	6,000,000	80667
5F2	600-667	Building Consolidation	\$	250,000	\$	250,000	80668
5F3	600-668	Building Consolidation	\$	1,000,000	\$	1,000,000	80669
5P5	600-692	Health Care Services	\$	828,587,776	\$	538,301,761	80670
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	56,125,998	\$	56,125,998	80671
5R2	600-608	Medicaid-Nursing Facilities	\$	160,192,055	\$	176,632,090	80672
5S3	600-629	MR/DD Medicaid Administration and Oversight	\$	1,620,960	\$	1,620,960	80673
5U3	600-654	Health Care Services Administration	\$	10,115,870	\$	15,474,709	80674
5U6	600-663	Children and Family Support	\$	4,929,717	\$	4,929,717	80675
5Z9	600-672	TANF Quality Control Reinvestments	\$	647,409	\$	688,421	80676
651	600-649	Hospital Care Assurance Program Fund	\$	231,893,404	\$	231,893,404	80677

TOTAL SSR State Special Revenue				80678
Fund Group		\$ 1,438,194,267	\$ 1,249,415,152	80679
Agency Fund Group				80680
192 600-646 Support Intercept - Federal	\$	110,000,000	\$ 110,000,000	80681
5B6 600-601 Food Stamp Intercept	\$	2,000,000	\$ 2,000,000	80682
583 600-642 Support Intercept - State	\$	16,000,000	\$ 16,000,000	80683
TOTAL AGY Agency Fund Group	\$	128,000,000	\$ 128,000,000	80684
Holding Account Redistribution Fund Group				80685
R12 600-643 Refunds and Audit Settlements	\$	3,600,000	\$ 3,600,000	80686
R13 600-644 Forgery Collections	\$	10,000	\$ 10,000	80687
TOTAL 090 Holding Account Redistribution Fund Group	\$	3,610,000	\$ 3,610,000	80688
TOTAL ALL BUDGET FUND GROUPS		\$17,068,147,447	\$17,391,014,127	80689

Section 206.66.03. APPROPRIATION ITEM RESTRUCTURING 80691

(A) If the Directors of Job and Family Services and Budget and Management agree, the Director of Budget and Management may, in fiscal years 2006 and 2007, reduce appropriations in appropriation items 600-321, Support Services, and 600-416, Computer Projects, by amounts equal to the federal share in each appropriation item. The total amount by which these appropriation items are reduced in accordance with this division is hereby appropriated to appropriation item 600-651, Federal General Operating (Fund 3AX).

(B) The Department of Job and Family Services may submit to the Office of Budget and Management a plan to realign appropriation items 600-321, Support Services, and 600-416, Computer Projects. The plan may include a request for the Director of Budget and Management to transfer appropriations from

appropriation items 600-321, Support Services, and 600-416, 80706
Computer Projects, to any other General Revenue Fund appropriation 80707
items in Section 312.03 of this act. If the plan is approved by 80708
the Office of Budget and Management, the Director of Budget and 80709
Management shall transfer appropriations as requested in the plan. 80710
Dollars spent pursuant to appropriations transferred in accordance 80711
with this division shall be for the same purposes for which the 80712
original appropriations were made. 80713

(C) In fiscal year 2007, the Department of Job and Family 80714
Services, with the approval of the Office of Budget and 80715
Management, shall utilize a method for determining the payments 80716
from applicable appropriation items into the Support Services 80717
State Operating Fund (Fund 230). The method shall contain 80718
characteristics of administrative ease and uniform application. 80719
Payments to the Support Services State Operating Fund (Fund 230) 80720
shall be made by intrastate transfer voucher. Amounts transferred 80721
in accordance with this division are hereby appropriated to 80722
appropriation item 600-661, Support Services State Operating (Fund 80723
230). 80724

Section 206.66.06. GOVERNOR'S OFFICE OF FAITH-BASED AND 80725
COMMUNITY INITIATIVES 80726

Of the foregoing appropriation item 600-321, Support 80727
Services, up to \$312,500 per fiscal year may be used to support 80728
the activities of the Governor's Office of Faith-Based and 80729
Community Initiatives. 80730

Section 206.66.09. TANF OHIO WORKS FIRST CASH ASSISTANCE 80731
PAYMENTS 80732

The Department of Job and Family Services shall use a portion 80733
of the moneys appropriated for the TANF program in appropriation 80734
items 600-410, TANF State; 600-658, Child Support Collections; and 80735

600-689, TANF Block Grant, to increase the cash assistance 80736
provided to recipients of benefits under the TANF Ohio Works First 80737
program by up to 10 per cent as compared to the cash assistance 80738
provided prior to July 1, 2005. The increased TANF cash assistance 80739
benefit shall be effective October 1, 2005. 80740

Section 206.66.10. MEDICAID DATA SYSTEM 80741

Upon receipt of federal approval and assured ninety per cent 80742
reimbursement for the project, up to \$6,000,000 in state and 80743
federal funds in fiscal year 2006 and up to \$4,000,000 in state 80744
and federal funds in fiscal year 2007 shall be used to fund the 80745
computer system specified in section 5111.915 of the Revised Code. 80746

Section 206.66.12. OHIO'S BEST RX START-UP COSTS 80747

An amount equal to the remaining unencumbered balance in 80748
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from 80749
fiscal year 2005 is hereby appropriated for fiscal year 2006 into 80750
appropriation item 600-440, Ohio's Best Rx Start-Up Costs. An 80751
amount equal to the remaining unencumbered balance in 80752
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from 80753
fiscal year 2006 is hereby appropriated for fiscal year 2007 into 80754
appropriation item 600-440, Ohio's Best Rx Start-up Costs. The 80755
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, shall 80756
be used by the Department of Job and Family Services to pay for 80757
the administrative and operational expenses for the Ohio's Best Rx 80758
Program in accordance with Chapter 5110. of the Revised Code, 80759
including costs associated with the duties assigned by the 80760
Department to the Ohio's Best Rx Program Administrator and for 80761
making payments to participating terminal distributors until 80762
sufficient cash exists to make payments from the accounts created 80763
in sections 5110.32 and 5110.33 of the Revised Code. Of 80764
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, not 80765

more than \$750,000 per fiscal year may be used by the department 80766
for administrative and operational costs, excluding outreach, that 80767
are not associated with the Ohio's Best Rx Program Administrator 80768
or the payments to participating terminal distributors. 80769

If the Director of Job and Family Services estimates that the 80770
appropriation is insufficient to fully cover start-up costs, the 80771
Director shall, in consultation with the Director of Budget and 80772
Management, submit a letter to the Governor, President of the 80773
Senate, Speaker of the House of Representatives, and the minority 80774
leaders of the Senate and House of Representatives. The letter 80775
shall declare the additional appropriation estimated to be needed 80776
and shall show a breakdown of how the additional appropriation 80777
will be used. The Director of Job and Family Services shall obtain 80778
the approval of the Controlling Board for any supplemental 80779
appropriation, if required. The amount approved by the Controlling 80780
Board is hereby appropriated. The use of state funds for program 80781
costs as provided in this section shall in no way obligate the 80782
state to fund further program costs, as the program is a discount 80783
program, not an entitlement program. 80784

OHIO'S BEST RX ADMINISTRATION 80785

The foregoing appropriation item 600-673, Ohio's Best Rx 80786
Administration, shall be used on an ongoing basis to cover 80787
expenses associated with the Ohio's Best Rx Program defined in 80788
section 5110.33 of the Revised Code. If receipts to the fund 80789
exceed the appropriated amount, the Director of Job and Family 80790
Services may request that the Director of Budget and Management 80791
increase the appropriation of this fund. Upon approval from the 80792
Director of Budget and Management, the additional amounts are 80793
hereby appropriated. 80794

Section 206.66.21. TANF TRANSFERS 80795

(A) Notwithstanding any provision of law to the contrary, 80796
through June 30, 2007, if the Director of Budget and Management 80797
determines that the estimated ending fund balance of the General 80798
Revenue Fund will be greater than the amounts assumed in this act 80799
for either fiscal year, the director may transfer the excess 80800
balance, up to a total of \$96,000,000 to Fund 5AX, Public 80801
Assistance Reconciliation Fund, to pay the state's outstanding 80802
TANF liability to the federal government. Upon transfer, these 80803
amounts are hereby appropriated. This division does not apply to 80804
division (A) of Section 312.09, Budget Stabilization Fund 80805
Transfers, of this act. 80806

(B) In executing division (A) of this section and division 80807
(A) of Section 312.09, Budget Stabilization Fund Transfers, it is 80808
intended that these divisions be applied and construed so that 80809
both of the transfers authorized under these divisions may be made 80810
through June 30, 2007. 80811

Section 206.66.22. FISCAL YEAR 2006 AND FISCAL YEAR 2007 80812
MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 80813

(A) As used in this section: 80814

"2003 cost report" means a complete and adequate Medicaid 80815
cost report covering calendar year 2003 filed with the Department 80816
of Job and Family Services under section 5111.26 of the Revised 80817
Code. 80818

"Intermediate care facility for the mentally retarded" has 80819
the same meaning as in section 5111.20 of the Revised Code. 80820

"ICF/MR services" means intermediate care facility for the 80821
mentally retarded services covered by the Medicaid program that an 80822
intermediate care facility for the mentally retarded provides to a 80823
resident of the facility who is a Medicaid recipient eligible for 80824
Medicaid-covered intermediate care facility for the mentally 80825

retarded services. 80826

(B) Except as provided in division (C) of this section, an 80827
intermediate care facility for the mentally retarded that has a 80828
valid Medicaid provider agreement on June 30, 2005, and a valid 80829
Medicaid provider agreement for fiscal years 2006 and 2007 shall 80830
be paid, for ICF/MR services the facility provides during fiscal 80831
years 2006 and 2007, the per diem rate the facility is paid for 80832
providing ICF/MR services on June 30, 2005. 80833

(C) If an intermediate care facility for the mentally 80834
retarded undergoes a change of provider during fiscal year 2006 or 80835
2007, the facility shall be paid, for ICF/MR services the facility 80836
provides during the period beginning on the effective date of the 80837
change of provider and ending June 30, 2007, the per diem rate 80838
paid to the previous provider for ICF/MR services that the 80839
previous provider provided on the day immediately before the 80840
effective date of the change of provider. 80841

(D) If, during fiscal year 2006 or 2007, an intermediate care 80842
facility for the mentally retarded obtains certification as an 80843
intermediate care facility for the mentally retarded from the 80844
Director of Health and begins participation in the Medicaid 80845
program, the facility shall be paid, for ICF/MR services the 80846
facility provides during the period beginning on the date the 80847
facility begins participation in the Medicaid program and ending 80848
June 30, 2007, a per diem rate that is the median of all per diem 80849
rates paid to intermediate care facilities for the mentally 80850
retarded on July 1, 2005. 80851

(E) If, during fiscal year 2006 or 2007, one or more Medicaid 80852
certified beds are added to an intermediate care facility for the 80853
mentally retarded with a valid Medicaid provider agreement for the 80854
time that the beds are added, the facility shall be paid a per 80855
diem rate for the new beds that is the same as the facility's per 80856

diem rate for the Medicaid certified beds that are in the facility 80857
on the day before the new beds are added. 80858

(F) An adjustment necessitated by an audit of an intermediate 80859
care facility for the mentally retarded's 2003 cost report may be 80860
applied to a per diem rate established under this section for the 80861
facility. 80862

(G) The Department of Job and Family Services shall follow 80863
this section in determining the per diem rate to be paid an 80864
intermediate care facility for the mentally retarded under the 80865
Medicaid program for ICF/MR services provided during fiscal years 80866
2006 and 2007 notwithstanding anything to the contrary in sections 80867
5111.20 to 5111.33 of the Revised Code. 80868

Section 206.66.23. FISCAL YEAR 2006 MEDICAID REIMBURSEMENT 80869
SYSTEM FOR NURSING FACILITIES 80870

(A) As used in this section: 80871

"2003 cost report" means a complete and adequate Medicaid 80872
cost report covering calendar year 2003 filed with the Department 80873
of Job and Family Services under section 5111.26 of the Revised 80874
Code. 80875

"Direct care peer group" means the peer group specified in 80876
rules adopted under division (E) of section 5111.23 of the Revised 80877
Code, as that section existed on June 30, 2005, into which a 80878
nursing facility is placed as part of the calculation of the 80879
nursing facility's rate for direct care costs. 80880

"Franchise permit fee" means the fee imposed by sections 80881
3721.50 to 3721.58 of the Revised Code. 80882

"Medicaid days" means all days during which a resident who is 80883
a Medicaid recipient eligible for nursing facility services 80884
occupies a bed in a nursing facility that is included in the 80885
nursing facility's certified capacity under Title XIX of the 80886

"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as
amended. Therapeutic or hospital leave days for which payment is
made under section 5111.33 of the Revised Code are considered
Medicaid days proportionate to the percentage of the nursing
facility's per resident per day rate paid for those days.

"Nursing facility" has the same meaning as in section 5111.20
of the Revised Code.

"Nursing facility services" means nursing facility services
covered by the Medicaid program that a nursing facility provides
to a resident of the nursing facility who is a Medicaid recipient
eligible for Medicaid-covered nursing facility services.

(B) Except as provided in division (C) of this section, a
nursing facility with a valid Medicaid provider agreement for
fiscal year 2006 shall be paid the following rate for nursing
facility services the nursing facility provides during fiscal year
2006:

(1) If the nursing facility had a valid Medicaid provider
agreement on June 30, 2005, and a 2003 cost report, the rate shall
be determined as follows:

(a) Calculate the nursing facility's rate using the method
that was used to calculate the nursing facility's rate for nursing
facility services provided on July 1, 2004, with the following
modifications:

(i) Use the nursing facility's 2003 cost report;

(ii) Set the maximum cost per case-mix unit for the nursing
facility's peer group at an amount equal to ninety-eight per cent
of the maximum cost per case-mix unit that, under division
(B)(2)(a) of section 5111.23 of the Revised Code, as that section
existed on June 30, 2005, was set for the nursing facility's peer
group for direct care costs for nursing facility services provided

on July 1, 2004; 80917

(iii) For the average case-mix score that is used in the 80918
multiplication performed under division (C)(1) of section 5111.23 80919
of the Revised Code, as that section existed on June 30, 2005, use 80920
the nursing facility's quarterly case-mix score that is based on 80921
the data the nursing facility submitted to the Department under 80922
division (B) of section 5111.231 of the Revised Code, as that 80923
section existed on June 30, 2005, for the quarter ending March 31, 80924
2004; 80925

(iv) For the inflation rate that is used in the calculation 80926
made under division (C)(2) of section 5111.23 of the Revised Code, 80927
as that section existed on June 30, 2005, use an inflation rate of 80928
six and twenty-eight-hundredths per cent; 80929

(v) Use the annual average case-mix score that was calculated 80930
under division (B) of section 5111.231 of the Revised Code, as 80931
that section existed on June 30, 2005, and used to calculate the 80932
nursing facility's rate for direct care costs for nursing facility 80933
services provided on July 1, 2004; 80934

(vi) For the inflation rate used in the calculation of the 80935
nursing facility's other protected costs under section 5111.235 of 80936
the Revised Code, as that section existed on June 30, 2005, use an 80937
inflation rate of seventy-nine-hundredths per cent; 80938

(vii) For the inflation rate used in the calculation of the 80939
nursing facility's indirect care costs under division (A)(1) of 80940
section 5111.24 of the Revised Code, as that section existed on 80941
June 30, 2005, use an inflation rate of ninety-one-hundredths per 80942
cent; 80943

(viii) Set the pre-inflation adjusted maximum rate for 80944
indirect care costs for the nursing facility's peer group at an 80945
amount equal to ninety-eight per cent of the pre-inflation 80946
adjusted maximum rate for indirect care costs that, under division 80947

(B) of section 5111.24 of the Revised Code, as that section
existed on June 30, 2005, was set for the nursing facility's peer
group for nursing facility services provided on July 1, 2004;

(ix) For the inflation rate used in the calculation of the
maximum rate for indirect care costs for the nursing facility's
peer group under division (B)(1) of section 5111.24 of the Revised
Code, as that section existed on June 30, 2005, use an inflation
rate of negative seven-hundredths per cent;

(x) For the inflation rate used in the calculations made
under divisions (A)(1)(b)(iii) and (D)(2)(b) and the second to
last paragraph of division (E) of section 5111.25 of the Revised
Code, as that section existed on June 30, 2005, use an inflation
rate of one and seventy-nine-hundredths per cent.

(b) Reduce the rate calculated under division (B)(1)(a) of
this section by six and sixty-two hundredths per cent;

(c) Determine the nursing facility's rate per case-mix unit
by dividing the nursing facility's rate determined under division
(B)(1)(b) of this section by the nursing facility's annual average
case-mix score that was used for the nursing facility under
division (B)(1)(a)(v) of this section;

(d) Array from low rate per case-mix unit to high rate per
case-mix unit each of the nursing facilities that are in the
nursing facility's direct care peer group and for which a rate is
determined under division (B)(1) of this section;

(e) Determine the nursing facility's facility-specific
estimated Medicaid costs by multiplying the nursing facility's
rate determined under division (B)(1)(b) of this section by the
number of the nursing facility's Medicaid days for calendar year
2003 as reported to the Department on May 31, 2004, in the
Medicaid Management Information System;

(f) Determine the total estimated Medicaid costs for all of the nursing facilities that are in the nursing facility's direct care peer group and for which a rate is determined under division (B)(1) of this section by calculating the sum of all of those nursing facilities' facility-specific estimated Medicaid costs determined under division (B)(1)(e) of this section;

(g) Divide the nursing facilities included in the array made under division (B)(1)(d) of this section into three sub-peer groups such that each of the following is the case:

(i) The first sub-peer group consists of those nursing facilities with the lowest rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(f) of this section;

(ii) The second sub-peer group consists of those nursing facilities with the middle rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(f) of this section;

(iii) The third sub-peer group consists of those nursing facilities with the highest rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(f) of this section.

(h) If the nursing facility is part of the first sub-peer group created under division (B)(1)(g)(i) of this section, increase the nursing facility's rate determined under division (B)(1)(b) of this section by two and one-half per cent;

(i) If the nursing facility is part of the second sub-peer group created under division (B)(1)(g)(ii) of this section, increase the nursing facility's rate determined under division

(B)(1)(b) of this section by one per cent; 81009

(j) If the nursing facility is part of the third sub-peer 81010
group created under division (B)(1)(g)(iii) of this section, 81011
decrease the nursing facility's rate determined under division 81012
(B)(1)(b) of this section by two and one-half per cent; 81013

(k) Unless the nursing facility is exempt from paying the 81014
franchise permit fee, increase the nursing facility's rate 81015
determined under division (B)(1)(h), (i), or (j) of this section 81016
by one dollar and ninety-five cents. 81017

(2) If the nursing facility had a valid Medicaid provider 81018
agreement on June 30, 2005, and was not required to file a cost 81019
report covering calendar year 2003, the rate shall be determined 81020
as follows: 81021

(a) Reduce the rate the nursing facility was paid for nursing 81022
facility services provided on June 30, 2005, by three per cent; 81023

(b) Unless the nursing facility is exempt from paying the 81024
franchise permit fee, increase the nursing facility's rate 81025
determined under division (B)(2)(a) of this section by one dollar 81026
and ninety-five cents. 81027

(C) If a nursing facility undergoes a change of operator on 81028
July 1, 2005, the nursing facility shall be paid, for nursing 81029
facility services the nursing facility provides during fiscal year 81030
2006, the rate that would have been paid to the exiting operator 81031
of the nursing facility for nursing facility services provided on 81032
July 1, 2005. 81033

If a nursing facility undergoes a change of operator during 81034
the period beginning July 2, 2005, and ending June 30, 2006, the 81035
nursing facility shall be paid, for nursing facility services the 81036
nursing facility provides during the period beginning on the 81037
effective date of the change of operator and ending June 30, 2006, 81038

the rate paid to the exiting operator for nursing facility 81039
services that the exiting operator provided on the day immediately 81040
before the effective date of the change of operator. 81041

(D) If, during fiscal year 2006, a nursing facility obtains 81042
certification as a nursing facility from the Director of Health 81043
and begins participation in the Medicaid program, the nursing 81044
facility shall be paid, for nursing facility services the nursing 81045
facility provides during the period beginning on the date the 81046
nursing facility begins participation in the Medicaid program and 81047
ending June 30, 2006, a rate that is the median of all rates paid 81048
to nursing facilities on July 1, 2005. 81049

(E) If, during fiscal year 2006, one or more Medicaid 81050
certified beds are added to a nursing facility with a valid 81051
Medicaid provider agreement for fiscal year 2006, the nursing 81052
facility shall be paid a rate for the new beds that is the same as 81053
the nursing facility's rate for the Medicaid certified beds that 81054
are in the nursing facility on the day before the new beds are 81055
added. 81056

(F) If the United States Centers for Medicare and Medicaid 81057
Services requires that the franchise permit fee be reduced or 81058
eliminated, the Department of Job and Family Services shall reduce 81059
the amount it pays nursing facilities under this section as 81060
necessary to reflect the loss to the state of the revenue and 81061
federal financial participation generated from the franchise 81062
permit fee. 81063

(G) A nursing facility's rate established under this section 81064
shall not be subject to any adjustments for any reason except that 81065
an adjustment resulting from an audit of the nursing facility's 81066
2003 cost report may be applied to a rate established under this 81067
section for the nursing facility not later than three years after 81068
the first day of the fiscal year for which the rate is 81069

established. 81070

(H) The Department of Job and Family Services shall follow 81071
this section in determining the rate to be paid a nursing facility 81072
under the Medicaid program for nursing facility services provided 81073
during fiscal year 2006 notwithstanding anything to the contrary 81074
in sections 5111.20 to 5111.33 of the Revised Code. 81075

Section 206.66.24. FISCAL YEAR 2007 MEDICAID REIMBURSEMENT 81076
SYSTEM FOR NURSING FACILITIES 81077

(A) As used in this section: 81078

"2003 cost report" means a complete and adequate Medicaid 81079
cost report covering calendar year 2003 filed with the Department 81080
of Job and Family Services under section 5111.26 of the Revised 81081
Code. 81082

"Franchise permit fee" means the fee imposed by sections 81083
3721.50 to 3721.58 of the Revised Code. 81084

"Nursing facility" has the same meaning as in section 5111.20 81085
of the Revised Code. 81086

"Nursing facility services" means nursing facility services 81087
covered by the Medicaid program that a nursing facility provides 81088
to a resident of the nursing facility who is a Medicaid recipient 81089
eligible for Medicaid-covered nursing facility services. 81090

(B) Except as provided in division (C) of this section, a 81091
nursing facility that has a valid Medicaid provider agreement on 81092
June 30, 2006, and a valid Medicaid provider agreement for fiscal 81093
year 2007 shall be paid, for nursing facility services the nursing 81094
facility provides during fiscal year 2007, the rate the nursing 81095
facility is paid for providing nursing facility services on June 81096
30, 2006. 81097

(C) If a nursing facility undergoes a change of operator 81098

during fiscal year 2007, the nursing facility shall be paid, for 811099
nursing facility services the nursing facility provides during the 811100
period beginning on the effective date of the change of operator 811101
and ending June 30, 2007, the rate paid to the exiting operator 811102
for nursing facility services that the exiting operator provided 811103
on the day immediately before the effective date of the change of 811104
operator. 811105

(D) If, during fiscal year 2007, a nursing facility obtains 811106
certification as a nursing facility from the Director of Health 811107
and begins participation in the Medicaid program, the nursing 811108
facility shall be paid, for nursing facility services the nursing 811109
facility provides during the period beginning on the date the 811110
nursing facility begins participation in the Medicaid program and 811111
ending June 30, 2007, a rate that is the median of all rates paid 811112
to nursing facilities on July 1, 2006. 811113

(E) If, during fiscal year 2007, one or more Medicaid 811114
certified beds are added to a nursing facility with a valid 811115
Medicaid provider agreement for fiscal year 2007, the nursing 811116
facility shall be paid a rate for the new beds that is the same as 811117
the nursing facility's rate for the Medicaid certified beds that 811118
are in the nursing facility on the day before the new beds are 811119
added. 811120

(F) If the United States Centers for Medicare and Medicaid 811121
Services requires that the franchise permit fee be reduced or 811122
eliminated, the Department of Job and Family Services shall reduce 811123
the amount it pays nursing facilities under this section as 811124
necessary to reflect the loss to the state of the revenue and 811125
federal financial participation generated from the franchise 811126
permit fee. 811127

(G) A nursing facility's rate established under this section 811128
shall not be subject to any adjustments for any reason except for 811129

that an adjustment resulting from an audit of the nursing 81130
facility's 2003 cost report may be applied to a rate established 81131
under this section for the nursing facility not later than three 81132
years after the first day of the fiscal year for which the rate is 81133
established. 81134

(H) The Department of Job and Family Services shall follow 81135
this section in determining the rate to be paid a nursing facility 81136
under the Medicaid program for nursing facility services provided 81137
during fiscal year 2007 notwithstanding anything to the contrary 81138
in sections 5111.20 to 5111.33 of the Revised Code. 81139

Section 206.66.27. FISCAL YEARS 2006 AND 2007 INCREASED 81140
PAYMENT TO ICFs/MR 81141

(A) As used in this section: 81142

"Active treatment" has the same meaning as in section 5126.12 81143
of the Revised Code. 81144

"Community alternative funding system" means the former 81145
system under which habilitation center services were reimbursed 81146
under the Medicaid program pursuant to former section 5111.041 of 81147
the Revised Code and former rules adopted under that section. 81148

(B) The Director of Job and Family Services may increase the 81149
rate paid to intermediate care facilities for the mentally 81150
retarded under Section 206.66.28 of this act for fiscal years 2006 81151
and 2007 by an amount specified in rules adopted under section 81152
5111.02 of the Revised Code to reimburse the facilities for active 81153
treatment day programming because of the termination of the 81154
community alternative funding system. 81155

***Section 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM** 81156

(A) As used in this section, "Assisted Living Program" has 81157
the same meaning as in section 5111.89 of the Revised Code. 81158

(B) After the Department of Job and Family Services enters 81159
into a contract with the Department of Aging under section 5111.91 81160
of the Revised Code for the Department of Aging to administer the 81161
Assisted Living Program, the Director of Job and Family Services 81162
shall quarterly certify to the Director of Budget and Management 81163
the estimated costs of the Assisted Living Program for the 81164
upcoming quarter. The estimate shall include the state and federal 81165
share of the costs. On receipt of the certified estimated costs 81166
for an upcoming quarter, the Director of Budget and Management 81167
shall do all of the following: 81168

(1) Transfer the state share of the amount of the estimated 81169
costs from GRF appropriation item 600-525, Health Care/Medicaid, 81170
to GRF appropriation item 490-422, Assisted Living; 81171

(2) Transfer the federal share of the amount of the estimated 81172
costs from GRF appropriation item 600-525, Health Care/Medicaid, 81173
to Fund 3C4, appropriation item 490-622, Assisted Living - 81174
Federal; 81175

(3) Increase the appropriation in JFS Fund 3G5, appropriation 81176
item 600-655, Interagency Reimbursement, by the federal share of 81177
the amount of the estimated costs. 81178

(C) The funds that the Director of Budget and Management 81179
transfers and increases under this section are hereby 81180
appropriated. 81181

***Section 206.66.37.** Section 206.66.36 of this act takes 81182
effect October 1, 2005. 81183

Section 206.66.38. MEDICAID VOUCHER PILOT PROGRAM 81184

Each quarter, the Department of Aging shall certify to the 81185
Director of Budget and Management the estimated costs of the 81186
Medicaid voucher pilot program for the individuals enrolled 81187

pursuant to section 5111.971 of the Revised Code. 81188

On a quarterly basis, on receipt of the certified costs, the 81189
Director of Budget and Management shall do all of the following: 81190

(1) Transfer the state share of the amount of the estimated 81191
costs from the GRF appropriation item 600-525, Health 81192
Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for 81193
the remainder of the biennium; 81194

(2) Increase the appropriation in Department of Aging Fund 81195
3C4, appropriation item 490-607, PASSPORT, by the federal share of 81196
the amount of the estimated costs; 81197

(3) Reduce the federal share of GRF appropriation item 81198
600-525, Health Care/Medicaid, by the federal share of the amount 81199
of the estimated costs; 81200

(4) Increase the appropriation in Department of Job and 81201
Family Services Fund 3G5, appropriation item 600-655, Interagency 81202
Reimbursement, by the federal share of the amount of the estimated 81203
costs. 81204

The funds that the Director of Budget and Management 81205
transfers and increases under this section are hereby 81206
appropriated. 81207

Section 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS 81208

The Director of Job and Family Services shall, not later than 81209
ninety days after the effective date of this section, submit to 81210
the United States Secretary of Health and Human Services an 81211
amendment to the state Medicaid plan to reduce to ninety per cent 81212
of the federal poverty guidelines the amount specified in division 81213
(A)(2) of section 5111.019 of the Revised Code as it existed 81214
immediately prior to the amendment made by this act. The reduction 81215
shall be implemented not earlier than ninety days after the 81216
effective date of this section and not later than the effective 81217

date of federal approval.	81218
Section 206.66.42. TERMINATION OF THE DISABILITY MEDICAL ASSISTANCE PROGRAM	81219
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(A) The Department of Job and Family Services shall terminate the Disability Medical Assistance Program effective October 1, 2005. All rules, standards, guidelines, or orders adopted or issued by the Director of Job and Family Services to govern the Disability Medical Assistance Program before its termination shall remain in effect on and after October 1, 2005, for the following purposes:	81221
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(1) To establish the legal obligations of the Department for claims arising from the Program;	81228
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(2) To determine an individual's previous eligibility for the Program;	81230
	81231
(3) To determine the validity of a claim for services under the Program;	81232
	81233
(4) To recover erroneous payments, as defined in section 5115.23 of the Revised Code, made before October 1, 2005.	81234
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(B) The Department may use funds appropriated to it to satisfy Program claims or contingent claims existing before October 1, 2005. The Department shall not pay claims for services rendered on or after October 1, 2005.	81236
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(C) The Department shall pay a claim for services rendered by a medical provider to a Disability Medical Assistance Program recipient before October 1, 2005, only if the claim is received by the Department not later than April 1, 2006.	81240
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(D) A judge or other person designated to make a decision in a state hearing, administrative appeal, or judicial proceeding initiated under section 5101.35 of the Revised Code may adjudicate	81244
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an appeal of a determination made by the Department under the 81247
Program before October 1, 2005. No person may adjudicate an appeal 81248
of a determination made by the Department under the Program on or 81249
after October 1, 2005. 81250

(E) Notwithstanding the termination of the Disability Medical 81251
Assistance Program, the following remain effective on and after 81252
October 1, 2005: 81253

(1) As described in section 5101.58 of the Revised Code, the 81254
Department's and a county's right of recovery against the 81255
liability of a third party for the cost of medical services and 81256
care; 81257

(2) As described in section 5101.59 of the Revised Code, the 81258
assignment of a Program recipient's right to medical support made 81259
by court or administrative order or payments from a third party. 81260

(F) The Department may take reasonable steps to inform 81261
Program recipients about the termination of the Program. A county 81262
department of job and family services shall take action with 81263
respect to these activities when requested by the Department. 81264

(G) An action taken under division (F) of this section shall 81265
not be the basis for requiring the Department to extend the 81266
Program or to approve or extend a person's eligibility for the 81267
Program on or after October 1, 2005. 81268

(H) The Director may adopt rules in accordance with section 81269
111.15 of the Revised Code to implement this section. 81270

Section 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES 81271

For fiscal years 2006 and 2007, the Medicaid program shall 81272
cover dental services as follows: 81273

(A) For Medicaid recipients under twenty-one years of age, in 81274
at least the amount, duration, and scope that it did immediately 81275

before the effective date of this section under rules adopted 81276
under section 5111.02 of the Revised Code governing Medicaid 81277
coverage of dental services for such recipients; 81278

(B) For Medicaid recipients twenty-one years of age or older, 81279
in an amount, duration, and scope specified in rules that the 81280
Director of Job and Family Services shall adopt under section 81281
5111.02 of the Revised Code. 81282

Section 206.66.45. MEDICAID COVERAGE OF VISION SERVICES 81283

For fiscal years 2006 and 2007, the Medicaid program shall 81284
cover vision services in at least the amount, duration, and scope 81285
that the program covers such services immediately prior to the 81286
effective date of this section. 81287

Section 206.66.46. DISABILITY DETERMINATIONS 81288

(A) A study shall be conducted by the state and local 81289
government entities actively engaged in providing programs or 81290
services for which disability is an eligibility requirement, 81291
including the Department of Job and Family Services, county 81292
departments of job and family services, and Rehabilitation 81293
Services Commission. The study shall consider all of the 81294
following: 81295

(1) The feasibility of an interagency agreement among the 81296
state and local government entities actively engaged in providing 81297
programs or services for which disability is an eligibility 81298
requirement, including the Department of Job and Family Services, 81299
county departments of job and family services, and the 81300
Rehabilitation Services Commission whereby one of these state or 81301
local government entities would perform disability determinations 81302
for all programs and services provided by a state or local 81303
government entity in which disability is an eligibility 81304
requirement; 81305

(2) Which of the state and local government entities engaged 81306
in providing programs or services for which disability is an 81307
eligibility requirement should perform disability determinations 81308
under an interagency agreement described in division (A)(1) of 81309
this section. 81310

(3) Potential cost-savings and other advantages, as well as 81311
any potential disadvantages, that might result from the 81312
interagency agreement; 81313

(4) Processes by which the interagency agreement could be 81314
implemented, including an estimate of the approximate time needed 81315
to implement it. 81316

(B) Not later than six months after the effective date of 81317
this section, a written report of the results of the study results 81318
shall be prepared and submitted to the Speaker of the House of 81319
Representatives and the President of the Senate. 81320

Section 206.66.47. HEALTH CARE/MEDICAID 81321

The foregoing appropriation item 600-525, Health 81322
Care/Medicaid, shall not be limited by section 131.33 of the 81323
Revised Code. 81324

Section 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING 81325
ESTATE RECOVERY 81326

The Director of Job and Family Services shall submit a state 81327
Medicaid plan amendment to the United States Secretary of Health 81328
and Human Services as necessary for the implementation of the 81329
amendments by this act to sections 5111.11 and 5111.111 of the 81330
Revised Code. 81331

Section 206.66.49. SINGLE AUDIT OF MEDICAID DURING FY 2006 81332
AND 2007 81333

The auditor of state may, during fiscal years 2006 and 2007, 81334
conduct a single performance audit of the medicaid program, as 81335
defined in section 5111.01 of the Revised Code, to determine ways 81336
of reducing or eliminating fraud, waste, and abuse in the program, 81337
making the program more efficient, and enhancing the program's 81338
results. An audit conducted under this section shall be conducted 81339
in accordance with generally accepted government auditing 81340
standards. Expenses incurred by the Auditor of State to conduct 81341
the performance audit shall be reimbursed by the Department of Job 81342
and Family Services. 81343

Section 206.66.51. MEDICAID PAYMENT FOR GRADUATE MEDICAL 81344
EDUCATION COSTS 81345

The Director of Job and Family Service may submit to the 81346
United States Secretary of Health and Human Services an amendment 81347
to the state Medicaid plan to implement section 5111.191 of the 81348
Revised Code. The Department may implement that section upon the 81349
Secretary's approval of the amendment. 81350

MEDICARE PART D 81351

The foregoing appropriation item 600-526, Medicare Part D, 81352
may be used by the Department of Job and Family Services for the 81353
implementation and operation of the Medicare Part D requirements 81354
contained in the "Medicare Prescription Drug, Improvement, and 81355
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 81356
the request of the Department of Job and Family Services, the 81357
Director of Budget and Management may increase the state share of 81358
appropriations in either appropriation item 600-525, Health 81359
Care/Medicaid, or appropriation item 600-526, Medicare Part D, 81360
with a corresponding decrease in the state share of the other 81361
appropriation item to allow the Department of Job and Family 81362
Services to implement and operate the new Medicare Part D 81363
requirements. If the state share of appropriation item 600-525, 81364

Health Care/Medicaid, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly.

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Section 206.66.52. MEDICAID ADMINISTRATIVE STUDY COUNCIL 81367

(A) There is hereby created the Medicaid Administrative Study Council to make recommendations as to the most effective organization of all executive agencies that administer services under 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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(11) A representative of the Governor, appointed by the Governor.

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The Governor shall appoint a member of the Council to serve as the chairperson of the Council.

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(B) The Council shall make recommendations regarding all of the following: 81393
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(1) The optimal administrative structure for the administration of the Medicaid program, including recommendations on whether the fiscal and operational objectives of the Medicaid program would be best achieved through creation of a new department, utilization of existing executive agencies, or some other administrative structure. The Council shall include in its considerations of an optimal administrative structure the role of local government entities that administer Medicaid services in such a structure. 81395
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(2) A centralized financing function to coordinate the activities of all executive agencies that deliver Medicaid services; 81404
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(3) If the recommendations of division (B)(1) of this section include the future creation of a Medicaid department, recommendations regarding all of the following: 81407
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(a) The scope and structure of the department; 81410

(b) A business plan to direct the transition of the Medicaid program from the Department of Job and Family Services and other executive agencies to the new department including a plan to address the fiscal and operational impact of the transition; 81411
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(c) Resources required to implement the business plan described in division (B)(3)(b) of this section. 81415
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(C) In developing the recommendations specified in division (B) of this section, the Council shall consider the following: 81418
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(1) The fiscal and operational impact on county departments of job and family services and other local government entities that perform Medicaid administrative functions; 81420
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(2) The fiscal and operational impact on the remaining duties and functions of the Department of Job and Family Services and other state agencies; 81423
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(3) The recommendations of the Ohio Commission to Reform Medicaid. 81426
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(D) The Council shall develop a plan to create a unified long-term care budget managed across all state and local agencies and service settings, as recommended by the Ohio Commission to Reform Medicaid. The plan shall designate the Department of Aging as the state agency responsible for the unified budget. The plan shall require the Director of Aging, in consultation with the Director of Job and Family Services, to designate a unified long-term care budget officer to manage the unified budget. 81428
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(E) By not later than December 31, 2006, the Council shall submit to the Governor a written report of the Council's recommendations. 81436
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(F) The Department of Job and Family Services may provide staff support and up to \$500,000 for contractual services and other resources necessary for the Medicaid Administrative Study Council to develop the recommendations set forth in division (B) of this section. 81439
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Section 206.66.57. ODJFS FUNDS 81444

AGENCY FUND GROUP 81445

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. 81446
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Section 206.66.60. EMPLOYER SURCHARGE	81452
The surcharge and the interest on the surcharge amounts due	81453
for calendar years 1988, 1989, and 1990 as required by Am. Sub.	81454
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the	81455
118th General Assembly, and section 4141.251 of the Revised Code	81456
as it existed prior to its repeal by Sub. H.B. 478 of the 122nd	81457
General Assembly, again shall be assessed and collected by,	81458
accounted for, and made available to the Department of Job and	81459
Family Services in the same manner as set forth in section	81460
4141.251 of the Revised Code as it existed prior to its repeal by	81461
Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the	81462
repeal of the surcharge for calendar years after 1990, pursuant to	81463
Sub. H.B. 478 of the 122nd General Assembly, except that amounts	81464
received by the Director on or after July 1, 2001, shall be	81465
deposited into the Unemployment Compensation Special	81466
Administrative Fund (Fund 4A9) established pursuant to section	81467
4141.11 of the Revised Code.	81468
Section 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF	81469
AGING	81470
The Department of Job and Family Services shall transfer,	81471
through intrastate transfer vouchers, cash from Fund 4J5, Home and	81472
Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in	81473
the Department of Aging. The sum of the transfers shall be	81474
\$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year	81475
2007. The transfer may occur on a quarterly basis or on a schedule	81476
developed and agreed to by both departments.	81477
Section 206.66.64. INDIVIDUALS MOVED FROM NURSING FACILITIES	81478
TO PASSPORT	81479
(A) As used in this section:	81480

(1) "Area agency on aging" has the same meaning as in section 81481
173.14 of the Revised Code. 81482

(2) "Long-Term Care Consultation Program" means the program 81483
the Department of Aging is required to develop under section 81484
173.42 of the Revised Code. 81485

(3) "Long-Term Care Consultation Program administrator" or 81486
"administrator" means the Department of Aging or, if the 81487
Department contracts with an area agency on aging or other entity 81488
to administer the Long-Term Care Consultation Program for a 81489
particular area, that agency or entity. 81490

(4) "Nursing facility" has the same meaning as in section 81491
5111.20 of the Revised Code. 81492

(5) "PASSPORT program" means the program created under 81493
section 173.40 of the Revised Code. 81494

(B) Each month during fiscal years 2006 and 2007, each area 81495
agency on aging shall determine whether individuals who reside in 81496
the area that the area agency on aging serves and are on a waiting 81497
list for the PASSPORT program have been admitted to a nursing 81498
facility. If an area agency on aging determines that such an 81499
individual has been admitted to a nursing facility, the agency 81500
shall notify the Long-Term Care Consultation Program administrator 81501
serving the area in which the individual resides about the 81502
determination. The administrator shall determine whether the 81503
PASSPORT program is appropriate for the individual and whether the 81504
individual would rather participate in the PASSPORT program than 81505
continue residing in the nursing facility. If the administrator 81506
determines that the PASSPORT program is appropriate for the 81507
individual and the individual would rather participate in the 81508
PASSPORT program than continue residing in the nursing facility, 81509
the administrator shall so notify the Department of Aging. On 81510
receipt of the notice from the administrator, the Department of 81511

Aging shall approve the enrollment of the individual in the PASSPORT program regardless of whether other individuals who are not in a nursing facility are ahead of the individual on the PASSPORT program's waiting list. Each quarter, the Department of Aging shall certify to the Director of Budget and Management the estimated increase in costs of the PASSPORT program for the individuals enrolled in the PASSPORT program pursuant to this section.

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(C) On a quarterly basis, on receipt of the certified costs, the Director of Budget and Management shall do all of the following:

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(1) Transfer the state share of the amount of the estimated costs from GRF appropriation item 450-525, Health Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for the remainder of the biennium;

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(2) Increase the appropriation in Ohio Department of Aging Fund 3C4, appropriation item 490-607, PASSPORT, by the federal share of the amount of the estimated costs;

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(3) Increase the appropriation in JFS Fund 3G5, appropriation item 600-655, Interagency Reimbursement, by the federal share of the amount of the estimated costs.

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The funds that the Director of Budget and Management transfers and increases under this division are hereby appropriated.

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(D) The individuals placed in the PASSPORT program pursuant to this section shall be in addition to the individuals placed in the PASSPORT program during fiscal years 2006 and 2007 based on the amount of money that is in GRF appropriation item 490-403, PASSPORT; Fund 4J4, appropriation item 490-610, PASSPORT/Residential State Supplement; Fund 4U9, appropriation item 490-602, PASSPORT Fund; and Fund 3C4, appropriation item

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490-607, PASSPORT, before any transfers to GRF appropriation item 81543
490-403, PASSPORT, and Fund 3C4, appropriation item 490-607, 81544
PASSPORT, are made under this section. 81545

(E) The Director of Job and Family Services shall submit to 81546
the United States Secretary of Health and Human Services an 81547
amendment to the Medicaid waiver authorizing the PASSPORT program 81548
as necessary for the implementation of this section. 81549

Section 206.66.66. OHIO ACCESS SUCCESS PROJECT 81550

Notwithstanding any limitations in sections 3721.51 and 81551
3721.56 of the Revised Code, in each fiscal year, cash from Fund 81552
4J5, Home and Community-Based Services for the Aged, in excess of 81553
the amounts needed for the transfers may be used by the Department 81554
of Job and Family Services for the following purposes: (A) up to 81555
\$1.0 million in each fiscal year to fund the state share of audits 81556
of Medicaid cost reports filed with the Department of Job and 81557
Family Services by nursing facilities and intermediate care 81558
facilities for the mentally retarded; and (B) up to \$350,000 in 81559
fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide 81560
one-time transitional benefits under the Ohio Access Success 81561
Project that the Director of Job and Family Services may establish 81562
under section 5111.88 of the Revised Code. 81563

Section 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD 81564
BANKS 81565

As used in this section, "federal poverty guidelines" has the 81566
same meaning as in section 5101.46 of the Revised Code. 81567

Notwithstanding section 5101.46 of the Revised Code, and 81568
prior to making any allocation to county departments of job and 81569
family services, the Department of Job and Family Services shall 81570
provide \$5,500,000 in each fiscal year from the foregoing 81571
appropriation item 600-620, Social Services Block Grant, for use 81572

in funding a grant agreement with the Ohio Association of Second
Harvest Food Banks. The Department shall enter into a grant
agreement with the Ohio Association of Second Harvest Food Banks
to reimburse it for costs incurred in the purchase of food
products and the distribution of those food products to agencies
participating in the emergency food distribution program.
Notwithstanding section 5101.46 of the Revised Code, the grant may
permit the Ohio Association of Second Harvest Food Banks to use up
to 5 per cent of the annual funding for administrative costs. The
Department may advance funds to the grantee under section 5101.10
of the Revised Code.

Prior to entering into the grant agreement, the Ohio
Association of Second Harvest Food Banks shall submit to the
Department for approval a plan for the distribution of the food
products to local food distribution agencies. If the plan meets
the requirements and conditions established by the Department, the
plan shall be incorporated into the grant agreement. The grant
agreement shall also require the Ohio Association of Second
Harvest Food Banks to ensure that local agencies will limit
participation of individuals and families who receive any of the
food products purchased with these funds to those who have an
income at or below 200 per cent of the federal poverty guidelines.
The Department and the Ohio Association of Second Harvest Food
Banks shall agree on reporting requirements to be incorporated
into the grant agreement, including a statement of expected
performance outcomes from the Ohio Association of Second Harvest
Food Banks and a requirement for their evaluation of their success
in achieving those outcomes.

Section 206.66.72. TRANSFER OF FUNDS TO THE DEPARTMENT OF
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

The Department of Job and Family Services shall transfer,

through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 81604
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 81605
in the Department of Mental Retardation and Developmental 81606
Disabilities. The amount transferred shall equal \$12,000,000 in 81607
fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer 81608
may occur on a quarterly basis or on a schedule developed and 81609
agreed to by both departments. 81610

Section 206.66.75. FUNDING FOR HABILITATIVE SERVICES 81611

Notwithstanding any limitations contained in sections 5112.31 81612
and 5112.37 of the Revised Code, in each fiscal year, cash from 81613
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 81614
for transfers to Fund 4K8, Home and Community-Based Services, in 81615
the Department of Mental Retardation and Developmental 81616
Disabilities, may be used by the Department of Job and Family 81617
Services to cover costs of care provided to participants in a 81618
waiver with an ICF/MR level of care requirement administered by 81619
the Department of Job and Family Services. 81620

Section 206.66.78. COMMUNITY ALTERNATIVE FUNDING SYSTEM 81621

(A) As used in this section, "habilitation center services" 81622
has the same meaning as in former section 5111.041 of the Revised 81623
Code as that section existed on June 30, 2005. 81624

(B) The Director of Job and Family Services may adopt rules 81625
under section 111.15 of the Revised Code as necessary to terminate 81626
the community alternative funding system on July 1, 2005. 81627

(C) The Department of Job and Family Services may inform 81628
individuals who received habilitation center services under the 81629
community alternative funding system on June 30, 2005, and such 81630
individuals' representatives about alternative services that may 81631
be available for the individuals. The Department may require 81632
county departments of job and family services to provide such 81633

information to the individuals and their representatives. 81634

(D) Habilitation center services provided before July 1, 81635
2005, are subject to the laws, rules, standards, guidelines, and 81636
orders regarding habilitation center services that were in effect 81637
at the time the services were provided. This includes such laws, 81638
rules, standards, guidelines, and orders regarding the 81639
responsibility for the nonfederal share of the services, the fee 81640
assessed under division (D) of section 5123.041 of the Revised 81641
Code as that section existed on the day the services were 81642
provided, cost reports, audits, and the recovery of erroneous 81643
payments. 81644

(E) The Department of Job and Family Services may use funds 81645
appropriated to the Department for the purpose of habilitation 81646
center services to satisfy a claim or contingent claim for 81647
habilitation center services provided before July 1, 2005, if the 81648
Department receives the claim or contingent claim before July 1, 81649
2006. The Department has no liability to satisfy either of the 81650
following: 81651

(1) A claim for habilitation center services provided before 81652
July 1, 2005, if the Department receives the claim on or after 81653
July 1, 2006. 81654

(2) A claim for habilitation center services provided on or 81655
after July 1, 2005. 81656

(F) To the extent authorized by section 5101.35 of the 81657
Revised Code, an individual may initiate or continue a state 81658
hearing, administrative appeal, or appeal to a court of common 81659
pleas regarding a decision or order concerning habilitation center 81660
services that were available before July 1, 2005. A decision 81661
resulting from a state hearing, administrative appeal, or appeal 81662
to a court of common pleas may not extend an individual's 81663
eligibility for habilitation center services beyond June 30, 2005. 81664

No individual may utilize section 5101.35 of the Revised Code to
contest the July 1, 2005, termination of the community alternative
funding system. 81665
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(G) Neither of the following are abrogated by the termination
of the community alternative funding system: 81668
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(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. 81670
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(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. 81674
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Section 206.66.79. CHILDREN'S HOSPITALS 81678

The foregoing appropriation items 600-635, Children's
Hospitals - Federal, and 600-636, Children's Hospitals - State,
shall be used by the Department of Job and Family Services to
increase the reimbursement rate for children's hospitals. 81679
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81681
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Section 206.66.84. CHILDREN'S TRUST FUND 81683

Notwithstanding sections 3109.13 to 3109.18 of the Revised
Code, in fiscal year 2006, the Director of Budget and Management
shall transfer \$1,500,000 cash from the Children's Trust Fund
(Fund 198 in the Department of Job and Family Services) to the
Partnerships for Success Fund (Fund 5BH in the Department of Youth
Services). On or before January 1, 2007, the Director of Budget
and Management shall transfer to the Children's Trust Fund (Fund
198) any amount of cash that remains unspent in the Partnerships
for Success Fund (Fund 5BH). 81684
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Section 206.66.85. HOSPITAL CARE ASSURANCE MATCH FUND	81693
Appropriation item 600-650, Hospital Care Assurance Match,	81694
shall be used by the Department of Job and Family Services in	81695
accordance with division (B) of section 5112.18 of the Revised	81696
Code.	81697
Section 206.66.87. HEALTH CARE SERVICES ADMINISTRATION	81698
The foregoing appropriation item 600-654, Health Care	81699
Services Administration, shall be used by the Department of Job	81700
and Family Services for costs associated with the administration	81701
of the Medicaid program.	81702
Section 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND	81703
Of the amount received by the Department of Job and Family	81704
Services during fiscal year 2006 and fiscal year 2007 from the	81705
first installment of assessments paid under section 5112.06 of the	81706
Revised Code and intergovernmental transfers made under section	81707
5112.07 of the Revised Code, the Director of Job and Family	81708
Services shall deposit \$350,000 in each fiscal year into the state	81709
treasury to the credit of the Health Care Services Administration	81710
Fund (Fund 5U3).	81711
Section 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE	81712
The foregoing appropriation item 600-658, Child Support	81713
Collections, shall be used by the Department of Job and Family	81714
Services to meet the TANF maintenance of effort requirements of	81715
Pub. L. No. 104-193. Once the state is assured that it will meet	81716
the maintenance of effort requirement, the Department of Job and	81717
Family Services may use funds from appropriation item 600-658,	81718
Child Support Collections, to support public assistance	81719
activities.	81720

Section 206.66.96. MEDICAID PROGRAM SUPPORT FUND - STATE 81721

The foregoing appropriation item 600-671, Medicaid Program 81722
Support, shall be used by the Department of Job and Family 81723
Services to pay for Medicaid services and contracts. The 81724
Department may also deposit to Fund 5C9 revenues received from 81725
other state agencies for Medicaid services under the terms of 81726
interagency agreements between the Department and other state 81727
agencies, and all funds the Department recovers because the 81728
benefits a person received under the disability medical assistance 81729
program established in section 5115.10 of the Revised Code were 81730
determined to be covered by the medical assistance program 81731
established under Chapter 5111. of the Revised Code. 81732

Section 206.66.99. TRANSFERS OF IMD/DSH CASH TO THE 81733
DEPARTMENT OF MENTAL HEALTH 81734

The Department of Job and Family Services shall transfer, 81735
through intrastate transfer voucher, cash from Fund 5C9, Medicaid 81736
Program Support, to the Department of Mental Health's Fund 4X5, 81737
OhioCare, in accordance with an interagency agreement that 81738
delegates authority from the Department of Job and Family Services 81739
to the Department of Mental Health to administer specified 81740
Medicaid services. 81741

Section 206.67.03. FEDERAL UNEMPLOYMENT PROGRAMS 81742

All unexpended funds remaining at the end of fiscal year 2005 81743
that were appropriated and made available to the state under 81744
section 903(d) of the Social Security Act, as amended, in the 81745
foregoing appropriation item 600-678, Federal Unemployment 81746
Programs (Fund 3V4), are hereby appropriated to the Department of 81747
Job and Family Services. Upon the request of the Director of Job 81748
and Family Services, the Director of Budget and Management shall 81749

increase the appropriation for fiscal year 2006 by the amount 81750
remaining unspent from the fiscal year 2005 appropriation and 81751
shall increase the appropriation for fiscal year 2007 by the 81752
amount remaining unspent from the fiscal year 2006 appropriation. 81753
The appropriation shall be used under the direction of the 81754
Department of Job and Family Services to pay for administrative 81755
activities for the Unemployment Insurance Program, employment 81756
services, and other allowable expenditures under section 903(d) of 81757
the Social Security Act, as amended. 81758

The amounts obligated pursuant to this section shall not 81759
exceed at any time the amount by which the aggregate of the 81760
amounts transferred to the account of the state under section 81761
903(d) of the Social Security Act, as amended, exceeds the 81762
aggregate of the amounts obligated for administration and paid out 81763
for benefits and required by law to be charged against the amounts 81764
transferred to the account of the state. 81765

Section 206.67.06. WORKFORCE DEVELOPMENT GRANT AGREEMENT 81766

The Department of Job and Family Services may use 81767
appropriations from appropriation item 600-688, Workforce 81768
Investment Act, to provide financial assistance for workforce 81769
development activities included in a grant agreement entered into 81770
by the department in accordance with section 5101.20 of the 81771
Revised Code. 81772

Section 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER 81773

Of the foregoing appropriation item 600-689, TANF Block 81774
Grant, \$1 million in each fiscal year shall be allocated to 81775
Accountability and Credibility Together (ACT) to continue its 81776
welfare diversion program for TANF eligible individuals. 81777

Section 206.67.08. KINSHIP PERMANENCY INCENTIVE PROGRAM 81778

Of the foregoing appropriation item 600-689, TANF Block Grant 81779
(Fund 3V6), \$10 million per fiscal year shall be used to support 81780
the activities of the Kinship Permanency Incentive Program created 81781
under section 5101.802 of the Revised Code. 81782

Section 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS 81783

Of the foregoing appropriation item 600-689, TANF Block Grant 81784
(Fund 3V6), the Department of Job and Family Services shall use 81785
\$600,000 in each fiscal year to support expenditures of the Ohio 81786
Alliance of Boys and Girls Clubs to provide after-school programs 81787
that protect at-risk children and enable youth to become 81788
responsible adults. The Ohio Alliance of Boys and Girls Clubs 81789
shall provide nutritional meals, snacks, and educational, youth 81790
development, and career development services to TANF eligible 81791
children participating in programs and activities operated by 81792
eligible Boys and Girls Clubs. 81793

The Department shall provide an annual grant of \$600,000 in 81794
each fiscal year to the Ohio Alliance of Boys and Girls Clubs. As 81795
soon as possible after entering into a grant agreement at the 81796
beginning of each fiscal year, the Department of Job and Family 81797
Services shall distribute the grant funds in one single payment. 81798
The Department of Job and Family Services and the Ohio Alliance of 81799
Boys and Girls Clubs shall agree on reporting requirements to be 81800
incorporated into the grant agreement. 81801

The Ohio Alliance of Boys and Girls Clubs shall return any 81802
fiscal year 2006 funds from this grant remaining unspent on June 81803
30, 2006, to the Ohio Department of Job and Family Services not 81804
later than November 1, 2006. The Ohio Alliance of Boys and Girls 81805
Clubs shall return any fiscal year 2007 funds from this grant 81806
remaining unspent on June 30, 2007, to the Ohio Department of Job 81807
and Family Services not later than November 1, 2007. 81808

CHILD WELFARE TRAINING INITIATIVE	81809
Of the foregoing appropriation item 600-689, TANF Block Grant	81810
(Fund 3V6), \$200,000 per fiscal year shall be provided to the	81811
National Center for Adoption Law and Policy to fund a	81812
multi-disciplinary child welfare training initiative. The	81813
Department of Job and Family Services shall coordinate with the	81814
National Center for Adoption Law and Policy to determine the focus	81815
of the training provided each year and to ensure that the training	81816
is designed to meet one of the four purposes of the Temporary	81817
Assistance to Needy Families program.	81818
TALBERT HOUSE	81819
Of the foregoing appropriation item 600-689, TANF Block Grant	81820
(Fund 3V6), \$75,000 in each fiscal year shall be distributed	81821
directly to the Talbert House to provide TANF eligible non-medical	81822
substance or alcohol abuse services.	81823
CHILDREN'S HUNGER ALLIANCE	81824
Of the foregoing appropriation item 600-689, TANF Block Grant	81825
(Fund 3V6), \$500,000 in each fiscal year shall be allocated to the	81826
Children's Hunger Alliance for Child Nutrition Program outreach	81827
efforts.	81828
*Section 206.67.10. EMPLOYMENT RETENTION INCENTIVE PROGRAM	81829
(A) As used in this section:	81830
(1) "Assistance group" has the same meaning as in section	81831
5107.02 of the Revised Code.	81832
(2) "Ohio Works First" means the program established under	81833
Chapter 5107. of the Revised Code.	81834
(B) Subject to section 5101.801 of the Revised Code, in	81835
fiscal year 2007 the Department of Job and Family Services may	81836
establish and administer the Employment Retention Incentive	81837

Program under which the Department provides cash payments to 81838
eligible assistance groups. The Department shall use the foregoing 81839
appropriation item 600-689, TANF Block Grant, to fund the program. 81840

To be eligible for the Employment Retention Incentive 81841
Program, an assistance group must meet all of the following 81842
requirements: 81843

(1) The assistance group must apply using an application that 81844
contains all of the information that rules specified in this 81845
section require in accordance with the application process 81846
established in those rules; 81847

(2) The assistance group must have ceased to participate in 81848
Ohio Works First in accordance with rules specified in this 81849
section; 81850

(3) The assistance group must include a member who was 81851
employed during the last month the assistance group participated 81852
in Ohio Works First in accordance with rules specified in this 81853
section; 81854

(4) That member of the assistance group must remain employed 81855
in accordance with rules specified in this section; 81856

(5) The assistance group must meet all other eligibility 81857
requirements established in rules specified in this section. 81858

(C) If the Department establishes the Employment Retention 81859
Incentive Program, the Department shall provide cash payments 81860
under the program in a manner that enables the cash payments to be 81861
excluded from the definition of "assistance" in 45 C.F.R. 81862
260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) 81863
excludes from the definition of assistance. Each county Department 81864
of Job and Family Services shall make eligibility determinations 81865
for the program and perform other administrative duties for the 81866
program in accordance with rules specified in this section. 81867

(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:

(1) The information that an application for the program must contain;

(2) The application process for the program, including the process to verify eligibility for the program;

(3) The manner in which an assistance group must have ceased to participate in Ohio Works First for the assistance group to qualify for the program;

(4) The manner in which an assistance group member must have been employed during the last month the assistance group participated in Ohio Works First for the assistance group to qualify for the program;

(5) The manner in which an assistance group member must remain employed for the assistance group to qualify for the program;

(6) Other eligibility requirements for the program;

(7) The amounts that eligible assistance groups are to receive as cash payments under the program;

(8) The frequency and duration that eligible assistance groups are to receive cash payments under the program;

(9) Requirements governing county departments' administrative duties regarding the program.

(E) In adopting rules under division (D)(2) of this section establishing the application process for the Employment Retention Incentive Program, the director may not require that application be submitted to county departments of job and family services.

*Section 206.67.11. Section 206.67.10 of this act takes 81897
effect July 1, 2006. 81898

Section 206.67.12. EARLY LEARNING INITIATIVE 81899

(A) As used in this section: 81900

(1) "Title IV-A services" means benefits and services that 81901
are allowable under Title IV-A of the "Social Security Act," as 81902
specified in 42 U.S.C. 604(a), except that they shall not be 81903
benefits and services included in the term "assistance" as defined 81904
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 81905
excluded from the definition of the term "assistance" under 45 81906
C.F.R. 260.31(b). 81907

(2) "Title IV-A funds" means funds provided under the 81908
temporary assistance for needy families block grant established by 81909
Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 81910
U.S.C. 601, as amended. 81911

(3) "Child care" has the same meaning as in section 5104.01 81912
of the Revised Code. 81913

(4) "Eligible child" means a child who is at least three 81914
years of age but not of compulsory school age or enrolled in 81915
kindergarten, is eligible for Title IV-A services, and whose 81916
family income does not exceed one hundred eighty-five per cent of 81917
the federal poverty line at application. If the family income of a 81918
child receiving early learning services under this section exceeds 81919
one hundred ninety-five per cent of the federal poverty line, the 81920
child ceases to be eligible for an early learning program. 81921

(5) "Early learning program" means a program for eligible 81922
children that is funded with Title IV-A funds and provides Title 81923
IV-A services that are both of the following: 81924

(a) Early learning services, as defined by the Department of 81925

Education pursuant to division (C)(1) of Section 206.09.54 of this act; 81926
81927

(b) Child care. 81928

(6) "Early learning provider" means an entity that is receiving Title IV-A funds to operate an early learning program. 81929
81930

(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. 81931
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(8) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code. 81935
81936

(9) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code. 81937
81938

(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. 81939
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(C) The Department of Job and Family Services shall do all of the following: 81945
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(1) Enter into a contract with each early learning agency in accordance with Section 206.09.54 of this act; 81947
81948

(2) 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)(3) of this section; 81949
81950
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81952

(3) In consultation with the Department of Education, adopt rules in accordance with Chapter 119. of the Revised Code to implement the Early Learning Initiative. The rules shall include 81953
81954
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all of the following: 81956

(a) Provisions regarding the establishment of co-payments for 81957
families of eligible children whose family income is more than one 81958
hundred sixty-five per cent of the federal poverty line but equal 81959
to or less than one hundred ninety-five per cent of the federal 81960
poverty line; 81961

(b) An exemption from co-payment requirements for families 81962
whose family income is equal to or less than one hundred 81963
sixty-five per cent of the federal poverty line; 81964

(c) A definition of "weekly attendance rate" for the purpose 81965
of reimbursing early learning agencies; 81966

(d) Provisions that establish reimbursement rates for early 81967
learning agencies based on the attendance of eligible children in 81968
the following categories: 81969

(i) Full-time, which consists of eligible children who attend 81970
twenty-five or more hours in a given week; 81971

(ii) Part-time, which consists of eligible children who 81972
attend fifteen or more hours but less than twenty-five hours in a 81973
given week; 81974

(iii) Hourly, which consists of eligible children who attend 81975
less than fifteen hours in a given week. 81976

(4) If, on the effective date of this section and Section 81977
206.09.54 of this act, no early learning agencies have been 81978
approved for a given county, the Department of Job and Family 81979
Services, in consultation with the Department of Education, shall 81980
establish a deadline for the submission of applications to be an 81981
early learning agency that occurs after the effective date of this 81982
section. 81983

(5)(a) Subject to division (C)(6)(b) of this Section and in 81984
consultation with the Department of Education, establish a 81985

caretaker employment or training eligibility requirement for 81986
participation in the Early Learning Initiative that specifies the 81987
minimum number of hours that the caretaker of the eligible child 81988
must be employed or participating in a work experience program, 81989
job-readiness activities, a job search, or educational activities 81990
and the time period over which the minimum number of hours is to 81991
be measured. These minimum hours may, but are not required to, 81992
overlap the period during the day or week in which the child 81993
participates in the early learning program. This caretaker 81994
employment or training eligibility requirement shall permit gaps 81995
of up to thirty days per year in employment or participation in 81996
training activities if the caretaker is expected to resume 81997
employment or participation in training activities within thirty 81998
days. 81999

(b) The Department shall periodically review the requirement 82000
described in division (C)(6)(a) of this Section to ensure that it 82001
complies with federal law and regulations. 82002

(D) Each early learning provider shall determine eligibility 82003
for Title IV-A services for children seeking to enroll in an early 82004
learning program. 82005

(E) Each county department of job and family services shall 82006
establish co-payment requirements in accordance with the rules 82007
adopted under division (C)(3) of this section. 82008

(F)(1) The Department of Job and Family Services shall ensure 82009
that all reimbursements paid to an early learning agency under 82010
this section are only for Title IV-A services provided to eligible 82011
children. 82012

(2) In calculating reimbursements, the Department shall 82013
reimburse the early learning agency for the first twenty-five days 82014
per year in which an eligible child is absent from the early 82015
learning program. 82016

(G) The provision of early learning services in a part-time 82017
early learning program shall not prohibit or otherwise prevent an 82018
individual from obtaining certificates for payment under division 82019
(C) of section 5104.32 of the Revised Code that the individual may 82020
use to purchase services from any provider qualified to provide 82021
publicly funded child care under section 5104.31 of the Revised 82022
Code for periods during which the child is not in an early 82023
learning program. If the individual must meet employment and 82024
training requirements for a certificate for payment, the 82025
individual may, but shall not be required to, meet these 82026
requirements concurrently with the time the child is participating 82027
in an early learning program or receiving child care as a result 82028
of the certificate. 82029

(H) Upon the transfer of appropriation from Department of 82030
Education appropriation line 200-663, Early Learning Initiative 82031
(Fund 5W2), to Department of Job and Family Services appropriation 82032
item 600-689, TANF Block Grant (Fund 3V6), up to \$94,380,000 in 82033
fiscal year 2006 and up to \$113,256,000 in fiscal year 2007 shall 82034
be used to reimburse early learning agencies under this section. 82035
The Department of Job and Family Services shall provide up to 82036
10,000 slots of services for eligible children in fiscal year 2006 82037
and up to 12,000 slots of services for eligible children in fiscal 82038
year 2007 through the Early Learning Initiative. In each fiscal 82039
year, the Department shall allocate at least seventeen slots of 82040
services to each county in the state. 82041

If, on or after the thirty-first day of December of each 82042
fiscal year, the Director of Budget and Management, in 82043
consultation with the Director of Job and Family Services and the 82044
Superintendent of Public Instruction, determines that there is a 82045
balance of funds in the Early Learning Initiative in either fiscal 82046
year 2006 or fiscal year 2007, the Director of Budget and 82047
Management may approve the use of the funds by the Department of 82048

Job and Family Services to provide publicly funded child care, as 82049
defined in section 5104.01 of the Revised Code. 82050

Of the foregoing appropriation item 600-689, TANF Block Grant 82051
(Fund 3V6), up to \$800,000 in each fiscal year may be used by the 82052
Department of Job and Family Services for administration of the 82053
Early Learning Initiative. 82054

The Director of Budget and Management, at the request of the 82055
Director of Job and Family Services, may transfer in each fiscal 82056
year up to \$2,200,000 cash from the Temporary Assistance for Needy 82057
Families Federal Fund (Fund 3V6) to the Early Learning Initiative 82058
(Fund 5W2) for administration of the Early Learning Initiative by 82059
the Department of Education. 82060

(I) Any contract executed prior to July 1, 2005, between an 82061
early learning agency, the Department of Job and Family Services, 82062
and the Department of Education shall be deemed to be effective as 82063
of July 1, 2005, upon issuance of a state purchase order even if 82064
such purchase order is approved at some later date, unless the 82065
executed contract expressly provides for a start date after July 82066
1, 2005. 82067

Section 206.67.13. MARKET RATE SURVEY 82068

The Department of Job and Family Services shall conduct a 82069
study of the market rates for the provision of child care to 82070
establish new rates for the funding of publicly funded child care. 82071
The Department shall complete this study and establish new rates 82072
for reimbursement not later than July 1, 2006. 82073

Each child care provider shall cooperate with the Department 82074
on this study. A provider that fails to cooperate with the 82075
Department shall not receive publicly funded child care funds in 82076
fiscal year 2006. 82077

Section 206.67.15. PRESCRIPTION DRUG REBATE FUND 82078

The foregoing appropriation item 600-692, Health Care 82079
Services, shall be used by the Department of Job and Family 82080
Services in accordance with section 5111.081 of the Revised Code. 82081
Moneys recovered by the Department for either hospital settlements 82082
or pursuant to the Department's rights of recovery under section 82083
5101.58 of the Revised Code, that are not directed to the Health 82084
Care Services Administration Fund (Fund 5U3) under section 5111.94 82085
of the Revised Code, shall also be deposited into Fund 5P5. 82086

**Section 206.67.18. MEDICAID COVERAGE OF ALCOHOL, DRUG 82087
ADDICTION, AND MENTAL HEALTH SERVICES** 82088

(A) To the maximum extent possible, the amendments to section 82089
5111.911 of the Revised Code shall be implemented in a manner that 82090
is consistent with the "State of Ohio Community Behavioral Health 82091
Medicaid Business Plan" finalized in August 2004, by the 82092
Departments of Job and Family Services, Mental Health, and Alcohol 82093
and Drug Addiction Services and the Ohio Association of Behavioral 82094
Health Authorities. 82095

(B) As soon as practicable, the Departments of Job and Family 82096
Services, Mental Health, and Alcohol and Drug Addiction Services, 82097
in conjunction with behavioral health providers, shall specify 82098
procedures that are consistent with federal law for the 82099
implementation of the "State of Ohio Community Behavioral Health 82100
Medicaid Business Plan." If it is determined that any portion of 82101
the Plan does not comply with federal law, the Departments, in 82102
conjunction with behavioral health providers, shall specify 82103
procedures to work toward implementation of that portion of the 82104
Plan. 82105

(C) A report of the progress of the implementation of the 82106
"State of Ohio Community Behavioral Health Medicaid Business Plan" 82107

shall be submitted to the Speaker of the House of Representatives 82108
and the President of the Senate not later than the first day of 82109
March and first day of October of each year until all components 82110
of the Plan have been fully implemented. 82111

Section 206.67.21. TRANSFER OF TOBACCO MASTER SETTLEMENT 82112
AGREEMENT FUNDS TO SUPPORT THE AGED, BLIND, AND DISABLED MANAGED 82113
CARE PILOT PROGRAMS 82114

(A) Not later than June 30, 2006, the Director of Job and 82115
Family Services, in conjunction with the Office of Budget and 82116
Management, shall determine the amounts necessary to implement the 82117
Aged, Blind, and Disabled Managed Care Pilot Programs established 82118
under sections 5111.163 and 5111.164 of the Revised Code. 82119

(B)(1) Notwithstanding section 183.02 of the Revised Code, on 82120
July 1, 2006, or as soon as possible thereafter, the Director of 82121
Budget and Management shall transfer cash equal to the state share 82122
of the amount determined pursuant to division (A) of this section 82123
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 82124
the ABD Managed Care Pilot Programs - State Fund (Fund 5BZ in the 82125
Department of Job and Family Services), which is hereby created. 82126
Of the tobacco revenue that is credited to the Tobacco Master 82127
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the 82128
share that is determined pursuant to section 183.02 of the Revised 82129
Code to be the amount transferred by the Director of Budget and 82130
Management from the Tobacco Master Settlement Agreement Fund (Fund 82131
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund 82132
H87) shall be reduced by the amount that is transferred from the 82133
Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD 82134
Managed Care Pilot Programs - State Fund (Fund 5BZ) in accordance 82135
with this section. The amounts transferred under this division are 82136
hereby appropriated to appropriation item 600-698, ABD Managed 82137
Care Pilot Programs - State. 82138

(2) Not later than ninety days after the Department of Job and Family Services terminates the pilot programs, the Director of Budget and Management shall transfer the unencumbered cash balance of the ABD Managed Care Pilot Programs - State Fund (Fund 5BZ) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87).

(C) The Department of Job and Family Services shall deposit federal reimbursement received for the Aged, Blind, and Disabled Managed Care Pilot Programs into the ABD Managed Care Pilot Programs - Federal Fund (Fund 3AZ), which is hereby created. Amounts deposited into Fund 3AZ are hereby appropriated to appropriation item 600-699, ABD Managed Care Pilot Programs - Federal.

Section 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job and Family Services shall request that the United States Secretary of Agriculture waive the applicability of the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food stamp benefit recipients who reside in a county of this state that the Department determines has an unemployment rate of over 10 per cent or does not have a sufficient number of jobs to provide employment for the recipients. The Department shall make monthly determinations of which counties the waiver shall be in effect in. No individual may be exempted from the work requirements for more than a total of twelve months beginning July 1, 2005, and ending June 30, 2007.

The Department shall report to the Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate on receipt or rejection of the waiver sought under this section.

Section 206.72. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund				82169
GRF 018-321 Operating Expenses	\$	957,000	\$ 957,000	82170
TOTAL GRF General Revenue Fund	\$	957,000	\$ 957,000	82171
General Services Fund Group				82172
403 018-601 Ohio Jury Instructions	\$	225,000	\$ 225,000	82173
TOTAL GSF General Services Fund	\$	225,000	\$ 225,000	82174
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,182,000	\$ 1,182,000	82175
STATE COUNCIL OF UNIFORM STATE LAWS				82176
Notwithstanding section 105.26 of the Revised Code, of the				82177
foregoing appropriation item 018-321, Operating Expenses, up to				82178
\$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007				82179
may be used to pay the expenses of the State Council of Uniform				82180
State Laws, including membership dues to the National Conference				82181
of Commissioners on Uniform State Laws.				82182
OHIO JURY INSTRUCTIONS FUND				82183
The Ohio Jury Instructions Fund (Fund 403) shall consist of				82184
grants, royalties, dues, conference fees, bequests, devises, and				82185
other gifts received for the purpose of supporting costs incurred				82186
by the Judicial Conference of Ohio in dispensing educational and				82187
informational data to the state's judicial system. Fund 403 shall				82188
be used by the Judicial Conference of Ohio to pay expenses				82189
incurred in dispensing educational and informational data to the				82190
state's judicial system. All moneys accruing to Fund 403 in excess				82191
of \$225,000 in fiscal year 2006 and in excess of \$225,000 in				82192
fiscal year 2007 are hereby appropriated for the purposes				82193
authorized.				82194
No money in the Ohio Jury Instructions Fund shall be				82195
transferred to any other fund by the Director of Budget and				82196
Management or the Controlling Board.				82197

Section 206.75. JSC THE JUDICIARY/SUPREME COURT				82198
General Revenue Fund				82199
GRF 005-321	Operating Expenses -	\$ 118,855,655	\$ 121,441,259	82200
	Judiciary/Supreme			
	Court			
GRF 005-401	State Criminal	\$ 328,676	\$ 343,730	82201
	Sentencing Council			
GRF 005-406	Law-Related Education	\$ 216,131	\$ 222,615	82202
GRF 005-502	Commission for Legal	\$ 435,000	\$ 875,000	82203
	Education Opportunity			
TOTAL GRF	General Revenue Fund	\$ 119,835,462	\$ 122,882,604	82204
General Services Fund Group				82205
672 005-601	Continuing Judicial	\$ 130,000	\$ 130,000	82206
	Education			
TOTAL GSF	General Services Fund	\$ 130,000	\$ 130,000	82207
Group				
Federal Special Revenue Fund Group				82208
3J0 005-603	Federal Grants	\$ 848,070	\$ 861,382	82209
TOTAL FED	Federal Special Revenue	\$ 848,070	\$ 861,382	82210
Fund Group				
State Special Revenue Fund Group				82211
4C8 005-605	Attorney Registration	\$ 3,169,774	\$ 3,264,867	82212
5T8 005-609	Grants and Awards	\$ 10,000	\$ 10,000	82213
6A8 005-606	Supreme Court	\$ 1,410,718	\$ 1,453,042	82214
	Admissions			
643 005-607	Commission on	\$ 569,203	\$ 586,261	82215
	Continuing Legal			
	Education			
TOTAL SSR	State Special Revenue	\$ 5,159,695	\$ 5,314,170	82216
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 125,973,227	\$ 129,188,156	82217

LAW-RELATED EDUCATION 82218

The foregoing appropriation item 005-406, Law-Related 82219
Education, shall be distributed directly to the Ohio Center for 82220
Law-Related Education for the purposes of providing continuing 82221
citizenship education activities to primary and secondary 82222
students, expanding delinquency prevention programs, increasing 82223
activities for at-risk youth, and accessing additional public and 82224
private money for new programs. 82225

COMMISSION FOR LEGAL EDUCATION OPPORTUNITY 82226

The foregoing appropriation item 005-502, Commission for 82227
Legal Education Opportunity, shall be used to fund activities of 82228
the Commission for Legal Education Opportunity created by the 82229
Chief Justice of the Supreme Court of Ohio for purposes of 82230
assisting minority, low-income, and educationally disadvantaged 82231
college graduates in transition to legal education. Moneys 82232
appropriated to the Commission for Legal Education Opportunity may 82233
be used to establish and provide intensive course study designed 82234
to prepare eligible college graduates for law education, provide 82235
annual stipends for students who successfully complete the course 82236
of study and are admitted to and maintain satisfactory academic 82237
standing in an Ohio law school, and pay the administrative costs 82238
associated with the program. 82239

CONTINUING JUDICIAL EDUCATION 82240

The Continuing Judicial Education Fund (Fund 672) shall 82241
consist of fees paid by judges and court personnel for attending 82242
continuing education courses and other gifts and grants received 82243
for the purpose of continuing judicial education. The foregoing 82244
appropriation item 005-601, Continuing Judicial Education, shall 82245
be used to pay expenses for continuing education courses for 82246
judges and court personnel. If it is determined by the 82247
Administrative Director of the Supreme Court that additional 82248

appropriations are necessary, the amounts are hereby appropriated. 82249

No money in the Continuing Judicial Education Fund shall be 82250
transferred to any other fund by the Director of Budget and 82251
Management or the Controlling Board. Interest earned on moneys in 82252
the Continuing Judicial Education Fund shall be credited to the 82253
fund. 82254

FEDERAL GRANTS 82255

The Federal Grants Fund (Fund 3J0) shall consist of grants 82256
and other moneys awarded to the Supreme Court (The Judiciary) by 82257
the United States Government or other entities that receive the 82258
moneys directly from the United States Government and distribute 82259
those moneys to the Supreme Court (The Judiciary). The foregoing 82260
appropriation item 005-603, Federal Grants, shall be used in a 82261
manner consistent with the purpose of the grant or award. If it is 82262
determined by the Administrative Director of the Supreme Court 82263
that additional appropriations are necessary, the amounts are 82264
hereby appropriated. 82265

No money in the Federal Grants Fund shall be transferred to 82266
any other fund by the Director of Budget and Management or the 82267
Controlling Board. However, interest earned on moneys in the 82268
Federal Grants Fund shall be credited or transferred to the 82269
General Revenue Fund. 82270

ATTORNEY REGISTRATION 82271

In addition to funding other activities considered 82272
appropriate by the Supreme Court, the foregoing appropriation item 82273
005-605, Attorney Registration, may be used to compensate 82274
employees and to fund appropriate activities of the following 82275
offices established by the Supreme Court under the Rules for the 82276
Government of the Bar of Ohio: the Office of Disciplinary Counsel, 82277
the Board of Commissioners on Grievances and Discipline, the 82278
Clients' Security Fund, the Board of Commissioners on the 82279

Unauthorized Practice of Law, and the Office of Attorney 82280
Registration. If it is determined by the Administrative Director 82281
of the Supreme Court that additional appropriations are necessary, 82282
the amounts are hereby appropriated. 82283

No moneys in the Attorney Registration Fund shall be 82284
transferred to any other fund by the Director of Budget and 82285
Management or the Controlling Board. Interest earned on moneys in 82286
the Attorney Registration Fund shall be credited to the fund. 82287

GRANTS AND AWARDS 82288

The Grants and Awards Fund (Fund 5T8) shall consist of grants 82289
and other moneys awarded to the Supreme Court (The Judiciary) by 82290
the State Justice Institute, the Division of Criminal Justice 82291
Services, or other entities. The foregoing appropriation item 82292
005-609, Grants and Awards, shall be used in a manner consistent 82293
with the purpose of the grant or award. If it is determined by the 82294
Administrative Director of the Supreme Court that additional 82295
appropriations are necessary, the amounts are hereby appropriated. 82296

No moneys in the Grants and Awards Fund shall be transferred 82297
to any other fund by the Director of Budget and Management or the 82298
Controlling Board. However, interest earned on moneys in the 82299
Grants and Awards Fund shall be credited or transferred to the 82300
General Revenue Fund. 82301

SUPREME COURT ADMISSIONS 82302

The foregoing appropriation item 005-606, Supreme Court 82303
Admissions, shall be used to compensate Supreme Court employees 82304
who are primarily responsible for administering the attorney 82305
admissions program under the Rules for the Government of the Bar 82306
of Ohio, and to fund any other activities considered appropriate 82307
by the court. Moneys shall be deposited into the Supreme Court 82308
Admissions Fund (Fund 6A8) under the Supreme Court Rules for the 82309
Government of the Bar of Ohio. If it is determined by the 82310

Administrative Director of the Supreme Court that additional	82311
appropriations are necessary, the amounts are hereby appropriated.	82312
No moneys in the Supreme Court Admissions Fund shall be	82313
transferred to any other fund by the Director of Budget and	82314
Management or the Controlling Board. Interest earned on moneys in	82315
the Supreme Court Admissions Fund shall be credited to the fund.	82316
CONTINUING LEGAL EDUCATION	82317
The foregoing appropriation item 005-607, Commission on	82318
Continuing Legal Education, shall be used to compensate employees	82319
of the Commission on Continuing Legal Education established under	82320
the Supreme Court Rules for the Government of the Bar of Ohio, and	82321
to fund other activities of the commission considered appropriate	82322
by the court. If it is determined by the Administrative Director	82323
of the Supreme Court that additional appropriations are necessary,	82324
the amounts are hereby appropriated.	82325
No moneys in the Continuing Legal Education Fund shall be	82326
transferred to any other fund by the Director of Budget and	82327
Management or the Controlling Board. Interest earned on moneys in	82328
the Continuing Legal Education Fund shall be credited to the fund.	82329
Section 206.78. LEC LAKE ERIE COMMISSION	82330
State Special Revenue Fund Group	82331
4C0 780-601 Lake Erie Protection \$ 875,000 \$ 875,000	82332
Fund	
5D8 780-602 Lake Erie Resources \$ 486,072 \$ 492,794	82333
Fund	
TOTAL SSR State Special Revenue	82334
Fund Group \$ 1,361,072 \$ 1,367,794	82335
TOTAL ALL BUDGET FUND GROUPS \$ 1,361,072 \$ 1,367,794	82336
CASH TRANSFER	82337
Not later than the thirtieth day of November of each fiscal	82338

year, the Executive Director of the Ohio Lake Erie Office, with 82339
the approval of the Lake Erie Commission, shall certify to the 82340
Director of Budget and Management the cash balance in the Lake 82341
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet 82342
operating expenses of the Lake Erie Office. The Lake Erie Office 82343
may request the Director of Budget and Management to transfer up 82344
to the certified amount from the Lake Erie Resources Fund (Fund 82345
5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of 82346
Budget and Management may transfer the requested amount, or the 82347
Director may transfer a different amount up to the certified 82348
amount. Cash transferred shall be used for the purposes described 82349
in division (A) of section 1506.23 of the Revised Code. The amount 82350
transferred by the director is hereby appropriated to the 82351
foregoing appropriation item 780-601, Lake Erie Protection Fund, 82352
which shall be increased by the amount transferred. 82353

Section 206.81. LRS LEGAL RIGHTS SERVICE 82354

General Revenue Fund				82355
GRF 054-100 Personal Services	\$	162,281	\$ 162,281	82356
GRF 054-200 Maintenance	\$	33,938	\$ 33,938	82357
GRF 054-300 Equipment	\$	1,856	\$ 1,856	82358
GRF 054-401 Ombudsman	\$	291,247	\$ 291,247	82359
TOTAL GRF General Revenue Fund	\$	489,322	\$ 489,322	82360
General Services Fund Group				82361
416 054-601 Gifts and Donations	\$	1,352	\$ 1,352	82362
5M0 054-610 Settlements	\$	75,000	\$ 75,000	82363
TOTAL GSF General Services				82364
Fund Group	\$	76,352	\$ 76,352	82365
Federal Special Revenue Fund Group				82366
3AG 054-613 Protection and	\$	114,089	\$ 114,089	82367
Advocacy - Voter				
Accessibility				

3B8	054-603	Protection and Advocacy - Mentally Ill	\$	1,059,041	\$	1,059,041	82368
3N3	054-606	Protection and Advocacy - Individual Rights	\$	550,283	\$	550,283	82369
3N9	054-607	Assistive Technology	\$	141,686	\$	141,686	82370
3R9	054-604	Family Support Collaborative	\$	50,000	\$	50,000	82371
3T2	054-609	Client Assistance Program	\$	400,553	\$	400,553	82372
3X1	054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	82373
3Z6	054-612	Traumatic Brain Injury	\$	65,138	\$	65,138	82374
305	054-602	Protection and Advocacy - Developmentally Disabled	\$	1,369,082	\$	1,369,082	82375
TOTAL FED Federal Special Revenue							82376
Fund Group			\$	3,937,656	\$	3,937,656	82377
State Special Revenue Fund Group							82378
5AE	054-614	Grants and Contracts	\$	75,000	\$	75,000	82379
TOTAL SSR State Special Revenue			\$	75,000	\$	75,000	82380
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	4,578,330	\$	4,578,330	82381
 Section 206.84. JLE JOINT LEGISLATIVE ETHICS COMMITTEE							82383
General Revenue Fund							82384
GRF	028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	82385

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	82386
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	82387

Section 206.87. LSC LEGISLATIVE SERVICE COMMISSION 82389

General Revenue Fund 82390

GRF 035-321 Operating Expenses	\$	14,770,000	\$	14,770,000	82391
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GRF 035-402 Legislative Interns	\$	1,012,000	\$	1,012,000	82392
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GRF 035-404 Legislative Office of Education Oversight	\$	1,256,427	\$	1,256,427	82393
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GRF 035-405 Correctional Institution Inspection Committee	\$	375,000	\$	390,000	82394
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GRF 035-409 National Associations	\$	445,000	\$	456,000	82395
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GRF 035-410 Legislative Information Systems	\$	3,625,000	\$	3,625,000	82396
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TOTAL GRF General Revenue Fund	\$	21,483,427	\$	21,509,427	82397
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General Services Fund Group 82398

4F6 035-603 Legislative Budget Services	\$	152,000	\$	152,500	82399
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410 035-601 Sale of Publications	\$	25,000	\$	25,000	82400
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TOTAL GSF General Services					82401
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Fund Group	\$	177,000	\$	177,500	82402
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TOTAL ALL BUDGET FUND GROUPS	\$	21,660,427	\$	21,686,927	82403
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Section 206.90. LIB STATE LIBRARY BOARD 82405

General Revenue Fund 82406

GRF 350-321 Operating Expenses	\$	6,298,677	\$	6,298,677	82407
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GRF 350-400 Ohio Public Library Information Network	\$	4,330,000	\$	4,330,000	82408
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GRF 350-401 Ohioana Rental Payments	\$	124,816	\$	124,816	82409
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GRF 350-501 Library for the	\$	535,615	\$	535,615	82410
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	Blind-Cincinnati					
GRF 350-502	Regional Library	\$	1,010,441	\$	1,010,441	82411
	Systems					
GRF 350-503	Library for the	\$	805,642	\$	805,642	82412
	Blind-Cleveland					
TOTAL GRF	General Revenue Fund	\$	13,105,191	\$	13,105,191	82413
	General Services Fund Group					82414
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	82415
	Charges					
4S4 350-604	OPLIN Technology	\$	3,000,000	\$	3,000,000	82416
459 350-602	Interlibrary Service	\$	2,469,925	\$	2,708,092	82417
	Charges					
TOTAL GSF	General Services					82418
Fund Group		\$	5,478,925	\$	5,717,092	82419
	Federal Special Revenue Fund Group					82420
313 350-601	LSTA Federal	\$	5,643,905	\$	5,643,905	82421
TOTAL FED	Federal Special Revenue					82422
Fund Group		\$	5,643,905	\$	5,643,905	82423
TOTAL ALL BUDGET FUND GROUPS		\$	24,228,021	\$	24,466,188	82424
	OHIOANA RENTAL PAYMENTS					82425
	The foregoing appropriation item 350-401, Ohioana Rental					82426
	Payments, shall be used to pay the rental expenses of the Martha					82427
	Kinney Cooper Ohioana Library Association pursuant to section					82428
	3375.61 of the Revised Code.					82429
	LIBRARY FOR THE BLIND-CINCINNATI					82430
	The foregoing appropriation item 350-501, Library for the					82431
	Blind-Cincinnati, shall be used for the Talking Book program,					82432
	which assists the blind and disabled.					82433
	REGIONAL LIBRARY SYSTEMS					82434
	The foregoing appropriation item 350-502, Regional Library					82435

Systems, shall be used to support regional library systems 82436
eligible for funding under sections 3375.83 and 3375.90 of the 82437
Revised Code. 82438

LIBRARY FOR THE BLIND-CLEVELAND 82439

The foregoing appropriation item 350-503, Library for the 82440
Blind-Cleveland, shall be used for the Talking Book program, which 82441
assists the blind and disabled. 82442

OHIO PUBLIC LIBRARY INFORMATION NETWORK 82443

The foregoing appropriation items 350-604, OPLIN Technology, 82444
and 350-400, Ohio Public Library Information Network, shall be 82445
used for an information telecommunications network linking public 82446
libraries in the state and such others as may be certified as 82447
participants by the Ohio Public Library Information Network Board. 82448

The Ohio Public Library Information Network Board shall 82449
consist of eleven members appointed by the State Library Board 82450
from among the staff of public libraries and past and present 82451
members of boards of trustees of public libraries, based on the 82452
recommendations of the Ohio library community. The Ohio Public 82453
Library Information Network Board, in consultation with the State 82454
Library, shall develop a plan of operations for the network. The 82455
board may make decisions regarding use of the foregoing 82456
appropriation items 350-400, Ohio Public Library Information 82457
Network, and 350-604, OPLIN Technology, may receive and expend 82458
grants to carry out the operations of the network in accordance 82459
with state law, and may appoint and fix the compensation of a 82460
director and necessary staff. The State Library shall be the 82461
fiscal agent for the network and shall have fiscal accountability 82462
for the expenditure of funds. The Ohio Public Library Information 82463
Network Board members shall be reimbursed for actual travel and 82464
necessary expenses incurred in carrying out their 82465
responsibilities. 82466

In order to limit access to obscene and illegal materials 82467
through internet use at Ohio Public Library Information Network 82468
(OPLIN) terminals, local libraries with OPLIN computer terminals 82469
shall adopt and implement policies that control access to obscene 82470
and illegal materials. These policies shall include use of 82471
technological systems to select or block certain internet access. 82472
The OPLIN shall condition provision of its funds, goods, and 82473
services on compliance with these policies. The OPLIN Board shall 82474
also adopt and communicate specific recommendations, including 82475
recommendations related to computer filtering, to local libraries 82476
on methods to control such improper usage. These methods may 82477
include each library implementing a written policy controlling 82478
such improper use of library terminals and requirements for 82479
parental involvement or written authorization for juvenile 82480
internet usage. 82481

Of the foregoing appropriation item 350-400, Ohio Public 82482
Library Information Network, up to \$100,000 in each fiscal year 82483
shall be used to help local libraries purchase filters to screen 82484
out obscene and illegal internet materials. 82485

The OPLIN Board shall research and assist or advise local 82486
libraries with regard to emerging technologies and methods that 82487
may be effective means to control access to obscene and illegal 82488
materials. The OPLIN Executive Director shall biannually provide 82489
written reports to the Governor, the Speaker and Minority Leader 82490
of the House of Representatives, and the President and Minority 82491
Leader of the Senate on any steps being taken by OPLIN and public 82492
libraries in the state to limit and control such improper usage as 82493
well as information on technological, legal, and law enforcement 82494
trends nationally and internationally affecting this area of 82495
public access and service. 82496

The Ohio Public Library Information Network, INFOhio, and 82497
OhioLINK shall, to the extent feasible, coordinate and cooperate 82498

in their purchase or other acquisition of the use of electronic 82499
 databases for their respective users and shall contribute funds in 82500
 an equitable manner to such effort. 82501

Section 206.93. LCO LIQUOR CONTROL COMMISSION 82502

Liquor Control Fund Group 82503

043 970-321 Operating Expenses \$ 781,181 \$ 803,348 82504

TOTAL LCF Liquor Control Fund Group \$ 781,181 \$ 803,348 82505

TOTAL ALL BUDGET FUND GROUPS \$ 781,181 \$ 803,348 82506

Section 206.96. LOT STATE LOTTERY COMMISSION 82508

General Services Fund Group 82509

231 950-604 Charitable Gaming \$ 1,200,000 \$ 1,200,000 82510

Oversight

TOTAL GSF General Services Fund \$ 1,200,000 \$ 1,200,000 82511

Group

State Lottery Fund Group 82512

044 950-100 Personal Services \$ 24,969,422 \$ 25,457,016 82513

044 950-200 Maintenance \$ 17,642,894 \$ 17,954,156 82514

044 950-300 Equipment \$ 2,517,533 \$ 2,494,718 82515

044 950-402 Game and Advertising \$ 70,524,000 \$ 70,024,000 82516

Contracts

044 950-500 Problem Gambling \$ 335,000 \$ 335,000 82517

Subsidy

044 950-601 Prizes, Bonuses, and \$ 150,952,466 \$ 147,716,286 82518

Commissions

871 950-602 Annuity Prizes \$ 148,680,031 \$ 138,918,557 82519

TOTAL SLF State Lottery Fund 82520

Group \$ 415,621,346 \$ 402,899,733 82521

TOTAL ALL BUDGET FUND GROUPS \$ 416,821,346 \$ 404,099,733 82522

OPERATING EXPENSES 82523

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize additional appropriations for operating expenses of the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.

PRIZES, BONUSES, AND COMMISSIONS

Any amounts, in addition to the amounts appropriated in appropriation item 950-601, Prizes, Bonuses, and Commissions, that the Director of the State Lottery Commission determines to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

ANNUITY PRIZES

With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund (Fund 871) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950-602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Ohio Lottery Commission shall transfer an amount greater than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000 in fiscal year 2007 to the Lottery Profits Education Fund. Transfers from the Commission to the Lottery Profits Education Fund shall represent the estimated net income from operations for

the Commission in fiscal year 2006 and fiscal year 2007. Transfers 82554
by the Commission to the Lottery Profits Education Fund shall be 82555
administered as the statutes direct. 82556

Section 206.99. MHC MANUFACTURED HOMES COMMISSION 82557

General Services Fund Group 82558

4K9 996-609 Operating Expenses \$ 272,500 \$ 0 82559

TOTAL GSF General Services 82560

Fund Group \$ 272,500 \$ 0 82561

TOTAL ALL BUDGET FUND GROUPS \$ 272,500 \$ 0 82562

INCREASED APPROPRIATION THROUGH CONTROLLING BOARD 82563

The Manufactured Homes Commission shall seek Controlling 82564

Board approval in fiscal year 2006 for a planned increase of at 82565

least \$356,250 in appropriation item 996-609, Operating Expenses. 82566

Section 209.03. MED STATE MEDICAL BOARD 82567

General Services Fund Group 82568

5C6 883-609 Operating Expenses \$ 7,467,317 \$ 7,467,317 82569

TOTAL GSF General Services 82570

Fund Group \$ 7,467,317 \$ 7,467,317 82571

TOTAL ALL BUDGET FUND GROUPS \$ 7,467,317 \$ 7,467,317 82572

Section 209.04. AMB MEDICAL TRANSPORTATION BOARD 82574

General Services Fund Group 82575

4N1 915-601 Operating Expenses \$ 388,450 \$ 0 82576

TOTAL GSF General Services 82577

Fund Group \$ 388,450 \$ 0 82578

TOTAL ALL BUDGET FUND GROUPS \$ 388,450 \$ 0 82579

Section 209.06. DMH DEPARTMENT OF MENTAL HEALTH 82581

General Services Fund Group 82582

151 235-601 General Administration	\$	89,614,180	\$	93,898,713	82583
TOTAL ISF Intragovernmental					82584
Service Fund Group	\$	89,614,180	\$	93,898,713	82585
Division of Mental Health--					82586
Psychiatric Services to Correctional Facilities					82587
General Revenue Fund					82588
GRF 332-401 Forensic Services	\$	4,338,858	\$	4,338,858	82589
TOTAL GRF General Revenue Fund	\$	4,338,858	\$	4,338,858	82590

FORENSIC SERVICES 82591

The foregoing appropriation item 332-401, Forensic Services, 82592
shall be used to provide psychiatric services to courts of common 82593
pleas. The appropriation shall be allocated through community 82594
mental health boards to certified community agencies and shall be 82595
distributed according to the criteria delineated in rule 82596
5122:4-1-01 of the Administrative Code. These community forensic 82597
funds may also be used to provide forensic training to community 82598
mental health boards and to forensic psychiatry residency programs 82599
in hospitals operated by the Department of Mental Health and to 82600
provide evaluations of patients of forensic status in facilities 82601
operated by the Department of Mental Health prior to conditional 82602
release to the community. 82603

In addition, appropriation item 332-401, Forensic Services, 82604
may be used to support projects involving mental health, substance 82605
abuse, courts, and law enforcement to identify and develop 82606
appropriate alternative services to institutionalization for 82607
nonviolent mentally ill offenders, and to provide linkage to 82608
community services for severely mentally disabled offenders 82609
released from institutions operated by the Department of 82610
Rehabilitation and Correction. Funds may also be utilized to 82611
provide forensic monitoring and tracking in addition to community 82612
programs serving persons of forensic status on conditional release 82613
or probation. 82614

	Division of Mental Health--			82615
	Administration and Statewide Programs			82616
	General Revenue Fund			82617
GRF 333-321	Central Administration	\$ 23,853,669	\$ 23,853,669	82618
GRF 333-402	Resident Trainees	\$ 1,364,919	\$ 1,364,919	82619
GRF 333-403	Pre-Admission	\$ 650,135	\$ 650,135	82620
	Screening Expenses			
GRF 333-415	Lease-Rental Payments	\$ 23,296,200	\$ 23,833,600	82621
GRF 333-416	Research Program	\$ 1,001,551	\$ 1,001,551	82622
	Evaluation			
TOTAL GRF	General Revenue Fund	\$ 50,166,474	\$ 50,703,874	82623
	General Services Fund Group			82624
149 333-609	Central Office Rotary	\$ 883,773	\$ 893,786	82625
	- Operating			
232 333-621	Family and Children	\$ 625,000	\$ 625,000	82626
	First Administration			
TOTAL	General Services Fund Group	\$ 1,508,773	\$ 1,518,786	82627
	Federal Special Revenue Fund Group			82628
3A6 333-608	Community & Hospital	\$ 65,000	\$ 0	82629
	Services			
3A8 333-613	Federal Grant -	\$ 562,417	\$ 512,417	82630
	Administration			
3A9 333-614	Mental Health Block	\$ 748,740	\$ 748,470	82631
	Grant			
3B1 333-635	Community Medicaid	\$ 3,671,537	\$ 3,691,683	82632
	Expansion			
324 333-605	Medicaid/Medicare	\$ 150,000	\$ 150,000	82633
TOTAL	Federal Special Revenue			82634
Fund Group		\$ 5,197,694	\$ 5,102,570	82635
	State Special Revenue Fund Group			82636
4X5 333-607	Behavioral Health	\$ 3,000,634	\$ 3,000,634	82637
	Medicaid Services			

5V2 333-611 Non-Federal	\$	35,000	\$	35,000	82638
Miscellaneous					
485 333-632 Mental Health	\$	134,233	\$	134,233	82639
Operating					
TOTAL State Special Revenue					82640
Fund Group	\$	3,169,867	\$	3,169,867	82641
TOTAL ALL BUDGET FUND GROUPS	\$	60,042,808	\$	60,495,097	82642

RESIDENCY TRAINEESHIP PROGRAMS 82643

The foregoing appropriation item 333-402, Resident Trainees, 82644
shall be used to fund training agreements entered into by the 82645
Department of Mental Health for the development of curricula and 82646
the provision of training programs to support public mental health 82647
services. 82648

PRE-ADMISSION SCREENING EXPENSES 82649

The foregoing appropriation item 333-403, Pre-Admission 82650
Screening Expenses, shall be used to pay for costs to ensure that 82651
uniform statewide methods for pre-admission screening are in place 82652
to perform assessments for persons in need of mental health 82653
services or for whom institutional placement in a hospital or in 82654
another inpatient facility is sought. Pre-admission screening 82655
includes the following activities: pre-admission assessment, 82656
consideration of continued stay requests, discharge planning and 82657
referral, and adjudication of appeals and grievance procedures. 82658

LEASE-RENTAL PAYMENTS 82659

The foregoing appropriation item 333-415, Lease-Rental 82660
Payments, shall be used to meet all payments at the times they are 82661
required to be made during the period from July 1, 2005, to June 82662
30, 2007, by the Department of Mental Health under leases and 82663
agreements made under section 154.20 of the Revised Code, but 82664
limited to the aggregate amount of \$47,129,800. Nothing in this 82665
act shall be deemed to contravene the obligation of the state to 82666

pay, without necessity for further appropriation, from the sources 82667
 pledged thereto, the bond service charges on obligations issued 82668
 under section 154.20 of the Revised Code. 82669

BEHAVIORAL HEALTH MEDICAID SERVICES 82670

The Department of Mental Health shall administer specified 82671
 Medicaid Services as delegated by the Department of Job and Family 82672
 Services in an interagency agreement. The foregoing appropriation 82673
 item 333-607, Behavioral Health Medicaid Services, may be used to 82674
 make payments for free-standing psychiatric hospital inpatient 82675
 services as defined in an interagency agreement with the 82676
 Department of Job and Family Services. 82677

Section 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS 82678

General Revenue Fund 82679

GRF 334-408 Community and Hospital \$ 390,424,545 \$ 400,324,545 82680

Mental Health Services

GRF 334-506 Court Costs \$ 976,652 \$ 976,652 82681

TOTAL GRF General Revenue Fund \$ 391,401,197 \$ 401,301,197 82682

General Services Fund Group 82683

149 334-609 Hospital Rotary - \$ 24,408,053 \$ 24,408,053 82684

Operating Expenses

150 334-620 Special Education \$ 120,930 \$ 120,930 82685

TOTAL GSF General Services 82686

Fund Group \$ 24,528,983 \$ 24,528,983 82687

Federal Special Revenue Fund Group 82688

3A6 334-608 Subsidy for Federal \$ 586,224 \$ 586,224 82689

Grants

3A8 334-613 Federal Letter of \$ 200,000 \$ 200,000 82690

Credit

3B0 334-617 Elementary and \$ 171,930 \$ 178,807 82691

Secondary Education

	Act				
3B1	334-635	Hospital Medicaid	\$	2,000,000	\$ 2,000,000 82692
		Expansion			
324	334-605	Medicaid/Medicare	\$	11,764,280	\$ 11,873,408 82693
		TOTAL FED Federal Special Revenue			82694
		Fund Group	\$	14,722,434	\$ 14,838,439 82695
		State Special Revenue Fund Group			82696
485	334-632	Mental Health	\$	2,476,297	\$ 2,476,297 82697
		Operating			
692	334-636	Community Mental	\$	80,000	\$ 80,000 82698
		Health Board Risk Fund			
		TOTAL SSR State Special Revenue			82699
		Fund Group	\$	2,556,297	\$ 2,556,297 82700
		TOTAL ALL BUDGET FUND GROUPS	\$	433,208,911	\$ 443,224,916 82701
		COMMUNITY MENTAL HEALTH BOARD RISK FUND			82702
		The foregoing appropriation item 334-636, Community Mental			82703
		Health Board Risk Fund, shall be used to make payments under			82704
		section 5119.62 of the Revised Code.			82705
		Section 209.06.06. DIVISION OF MENTAL HEALTH - COMMUNITY			82706
		SUPPORT SERVICES			82707
		General Revenue Fund			82708
GRF	335-404	Behavioral Health	\$	5,865,265	\$ 6,865,265 82709
		Services-Children			
GRF	335-405	Family & Children	\$	2,260,000	\$ 2,260,000 82710
		First			
GRF	335-419	Community Medication	\$	7,959,798	\$ 7,959,798 82711
		Subsidy			
GRF	335-505	Local Mental Health	\$	94,687,868	\$ 99,687,868 82712
		Systems of Care			
		TOTAL GRF General Revenue Fund	\$	110,772,931	\$ 116,772,931 82713

General Services Fund Group				82714
4P9 335-604 Community Mental	\$	250,000	\$ 250,000	82715
Health Projects				
TOTAL GSF General Services				82716
Fund Group	\$	250,000	\$ 250,000	82717
Federal Special Revenue Fund Group				82718
3A6 335-608 Federal Miscellaneous	\$	1,089,699	\$ 678,699	82719
3A7 335-612 Social Services Block	\$	8,657,288	\$ 8,657,288	82720
Grant				
3A8 335-613 Federal Grant -	\$	2,407,040	\$ 2,407,040	82721
Community Mental				
Health Board Subsidy				
3A9 335-614 Mental Health Block	\$	14,969,400	\$ 14,969,400	82722
Grant				
3B1 335-635 Community Medicaid	\$	264,088,404	\$ 282,807,902	82723
Expansion				
TOTAL FED Federal Special Revenue	\$	291,211,831	\$ 309,520,329	82724
Fund Group				
State Special Revenue Fund Group				82725
5AU 335-615 Behavioral Healthcare	\$	4,690,000	\$ 4,690,000	82726
5CH 335-622 Residential State	\$	1,500,000	\$ 1,500,000	82727
Supplement				
5CS 335-624 Adult Emergency	\$	4,000,000	\$ 4,000,000	82728
Assistance				
632 335-616 Community Capital	\$	350,000	\$ 350,000	82729
Replacement				
TOTAL SSR State Special Revenue	\$	10,540,000	\$ 10,540,000	82730
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	412,774,762	\$ 437,083,260	82731
DEPARTMENT TOTAL				82732
GENERAL REVENUE FUND	\$	556,679,460	\$ 573,116,860	82733
DEPARTMENT TOTAL				82734

GENERAL SERVICES FUND GROUP	\$	115,901,936	\$	120,196,482	82735
DEPARTMENT TOTAL					82736
FEDERAL SPECIAL REVENUE					82737
FUND GROUP	\$	311,131,959	\$	329,461,338	82738
DEPARTMENT TOTAL					82739
STATE SPECIAL REVENUE FUND GROUP	\$	16,266,164	\$	16,266,164	82740
DEPARTMENT TOTAL					82741
TOTAL DEPARTMENT OF MENTAL HEALTH	\$	999,979,519	\$	1,039,040,844	82742

Section 209.06.09. COMMUNITY MEDICATION SUBSIDY 82744

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. 82745
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LOCAL MENTAL HEALTH SYSTEMS OF CARE 82750

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. 82751
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Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2006 and not less than \$34,818,917 in fiscal year 2007 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards. 82756
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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. 82760
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BEHAVIORAL HEALTH - CHILDREN 82762

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 82763
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services include mental health and alcohol and other drug 82766
treatment services and other necessary supports. 82767

Of the foregoing appropriation item 335-404, Behavioral 82768
Health Services-Children, an amount up to \$5.0 million in fiscal 82769
year 2006 and \$6.0 million in fiscal year 2007 shall be 82770
distributed to local Alcohol, Drug Addiction, and Mental Health 82771
Boards; Community Mental Health Boards; and Alcohol and Drug 82772
Addiction Boards, based upon a formula and an approved children's 82773
behavioral health transformation plan developed and endorsed by 82774
the local Family and Children First Council with the leadership 82775
from the Alcohol, Drug Addiction, and Mental Health Board, or the 82776
Community Mental Health Board, and the Alcohol and Drug Addiction 82777
Services Board. The use of these funds shall be approved by a team 82778
of state and local stakeholders appointed by the Ohio Family and 82779
Children First Cabinet Council. This team shall be appointed not 82780
later than July 1, 2005, and shall include, but not be limited to, 82781
all of the following: 82782

(A) At least one representative from each of the Departments 82783
of Alcohol and Drug Addiction Services, Mental Health, Education, 82784
Health, Job and Family Services, Mental Retardation and 82785
Developmental Disabilities, and the Department of Youth Services; 82786

(B) At least one person representing local public children's 82787
services agencies; 82788

(C) At least one person representing juvenile courts; 82789

(D) At least one person representing local Alcohol, Drug 82790
Addiction, and Mental Health Boards; Community Mental Health 82791
Boards; and Alcohol and Drug Addiction Boards; 82792

(E) At least one person representing local Family and 82793
Children First Council Coordinators; 82794

(F) At least one family representative. 82795

Children's behavioral health transformation plans shall be 82796
congruent with the development and implementation of the process 82797
described in division (B)(2)(b) of section 121.37 of the Revised 82798
Code and shall address all of the following as determined by a 82799
team of state and local stakeholders appointed by the Ohio Family 82800
and Children First Cabinet Council: 82801

(A) Specific strategies and actions for use of all funds 82802
allocated for the Access to Better Care Initiative by all Ohio 82803
Family and Children First Cabinet Council agencies that will 82804
further the transformation of the local Children's Behavioral 82805
Health Care System; 82806

(B) Providing services to children with behavioral health 82807
disorders, particularly those with intensive needs, and their 82808
families, across all child-serving systems, including child 82809
welfare and juvenile justice and for those youth whose parents 82810
would otherwise have to relinquish custody to obtain needed 82811
behavioral health services; 82812

(C) Assuring that families are included in all service 82813
planning activities and have access to advocates to assist them if 82814
they choose; 82815

(D) Implementation of home-based services and other 82816
alternatives to out-of-home placement; 82817

(E) Assuring that all individual service plans for children 82818
and their families address the academic achievement of the child; 82819

(F) Coordinating the most efficient and effective use of 82820
federal, state, and local funds to meet the needs of children and 82821
their families. 82822

Funds may be used to support the following services and 82823
activities: 82824

(A) Mental health services provided by the Ohio Department of 82825

Mental Health certified agencies and alcohol and other drug 82826
services provided by Department of Alcohol and Drug Addiction 82827
Services certified agencies; 82828

(B) Services and supports for children and their families 82829
that further the implementation of their individual service plans; 82830

(C) Treatment services in out-of-home settings, including 82831
residential facilities, when other alternatives are not available 82832
or feasible; 82833

(D) Administrative support for efforts associated with this 82834
initiative; 82835

(E) These funds shall not be used to supplant existing 82836
efforts. 82837

The Ohio Family and Children First Cabinet Council appointed 82838
team shall approve the plans for local behavioral health services 82839
and ensure the plans are components of and properly coordinated 82840
with the county service coordination plan as defined in section 82841
121.37 of the Revised Code. In addition to approving the plans for 82842
new behavioral health funding, this team shall design a mechanism 82843
to provide technical assistance to local communities, monitor the 82844
plans, and may, as part of the monitoring role, conduct site 82845
visits. 82846

Of the foregoing appropriation item 335-404, Behavioral 82847
Health Services-Children, an amount up to \$1.0 million in fiscal 82848
year 2006 and \$1.0 million in fiscal year 2007 shall be used to 82849
support projects, as determined by the Ohio Family and Children 82850
First Cabinet Council, in select areas around the state to focus 82851
on improving behavioral health services for children involved in 82852
the child welfare and juvenile justice systems. At least one of 82853
these projects shall focus on services for adolescent girls that 82854
are involved in or at risk of involvement with the juvenile 82855
justice system. 82856

Of the foregoing appropriation item 335-405, Family & Children First, an amount up to \$500,000 in fiscal year 2006 and \$500,000 in fiscal year 2007 shall be used for children who do not have behavioral health disorders but require assistance through the County Family and Children First Council.

RESIDENTIAL STATE SUPPLEMENT

The foregoing appropriation item 335-622, Residential State Supplement, shall be used to provide subsidized support for licensed adult care facilities which serve individuals with mental illness.

ADULT EMERGENCY ASSISTANCE

The foregoing appropriation item 335-624, Adult Emergency Assistance, shall be used by the Department of Mental Health to provide pharmaceuticals for adults who are not eligible for Medicaid and whose income is below seventy-five per cent of the federal poverty guideline.

Section 209.06.15. The Department of Mental Health, with the Bureau of Workers' Compensation, Department of Rehabilitation and Correction, the Department of Youth Services, and any other state or local government agency that purchases prescription drugs, other than the Department of Job and Family Services for the purposes of the Medicaid program shall do all of the following:

(A) Study intrastate consolidated prescription drug purchasing systems currently in effect in other states under which a single entity administers the state's prescription drug purchases;

(B) Estimate potential cost-savings and other advantages, as well as any potential disadvantages, that might result if Ohio were to consolidate its executive agencies' prescription drug purchases under a prescription drug purchasing program;

(C) Design a consolidated prescription drug purchasing program appropriate to the prescription drug purchasing needs of the state, including the following elements:	82887
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(1) The scope and structure of the consolidated prescription drug purchasing program;	82890
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(2) A business plan to direct the implementation of the program and the transition of prescription drug purchasing from the state's executive agencies to the consolidated prescription drug purchasing program;	82892
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(3) Identification of the resources required to implement the business plan described in division (C)(2) of this section;	82896
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(4) A schedule of the amount of time required to implement the business plan described in division (C)(2) of this section.	82898
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(D) By not later than January 1, 2006, prepare and submit a written report of its findings to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate. The report shall include an analysis of any costs Ohio may incur in creating a consolidated prescription drug purchasing program.	82900
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Section 209.09. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES	82906
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Section 209.09.03. GENERAL ADMINISTRATION AND STATEWIDE SERVICES	82908
	82909
General Revenue Fund	82910
GRF 320-321 Central Administration \$ 9,357,877 \$ 9,357,874	82911
GRF 320-412 Protective Services \$ 2,463,000 \$ 2,463,000	82912
GRF 320-415 Lease-Rental Payments \$ 23,296,200 \$ 23,833,600	82913
TOTAL GRF General Revenue Fund \$ 35,117,077 \$ 35,654,474	82914
General Services Fund Group	82915

4B5 320-640 Conference/Training	\$	300,000	\$	300,000	82916
TOTAL GSF General Services					82917
Fund Group	\$	300,000	\$	300,000	82918
Federal Special Revenue Fund Group					82919
3A4 320-605 Administrative Support	\$	13,492,892	\$	13,492,892	82920
3A5 320-613 DD Council Operating	\$	895,440	\$	895,440	82921
Expenses					82922
325 320-634 Protective Services	\$	100,000	\$	100,000	82923
TOTAL FED Federal Special Revenue					82924
Fund Group	\$	14,488,332	\$	14,488,332	82925
State Special Revenue Fund Group					82926
5S2 590-622 Medicaid	\$	8,000,000	\$	8,000,000	82927
Administration &					
Oversight					
TOTAL SSR State Special Revenue					82928
Fund Group	\$	8,000,000	\$	8,000,000	82929
TOTAL ALL GENERAL ADMINISTRATION					82930
AND STATEWIDE SERVICES					82931
BUDGET FUND GROUPS	\$	57,905,409	\$	58,442,806	82932
LEASE-RENTAL PAYMENTS					82933
The foregoing appropriation item 320-415, Lease-Rental					82934
Payments, shall be used to meet all payments at the times they are					82935
required to be made during the period from July 1, 2005, to June					82936
30, 2007, by the Department of Mental Retardation and					82937
Developmental Disabilities under leases and agreements made under					82938
section 154.20 of the Revised Code, but limited to the aggregate					82939
amount of \$47,129,800. Nothing in this act shall be deemed to					82940
contravene the obligation of the state to pay, without necessity					82941
for further appropriation, from the sources pledged thereto, the					82942
bond service charges on obligations issued under section 154.20 of					82943
the Revised Code.					82944

Section 209.09.06. COMMUNITY SERVICES				82945
General Revenue Fund				82946
GRF 322-405	State Use Program	\$ 20,000	\$ 0	82947
GRF 322-413	Residential and	\$ 7,423,021	\$ 7,423,021	82948
Support Services				
GRF 322-416	Waiver State Match	\$ 103,090,738	\$ 104,397,504	82949
GRF 322-417	Supported Living	\$ 43,160,198	\$ 43,160,198	82950
GRF 322-451	Family Support	\$ 6,938,898	\$ 6,938,898	82951
Services				
GRF 322-452	Service and Support	\$ 8,672,730	\$ 8,672,730	82952
Administration				
GRF 322-501	County Boards	\$ 32,193,542	\$ 32,193,542	82953
Subsidies				
GRF 322-503	Tax Equity	\$ 14,500,000	\$ 14,500,000	82954
TOTAL GRF	General Revenue Fund	\$ 215,999,127	\$ 217,285,893	82955
General Services Fund Group				82956
4J6 322-645	Intersystem Services	\$ 300,000	\$ 0	82957
for Children				
4U4 322-606	Community MR and DD	\$ 300,000	\$ 50,000	82958
Trust				
488 322-603	Provider Audit Refunds	\$ 350,000	\$ 350,000	82959
TOTAL GSF	General Services			82960
Fund Group		\$ 950,000	\$ 400,000	82961
Federal Special Revenue Fund Group				82962
3A4 322-605	Community Program	\$ 1,500,000	\$ 1,500,000	82963
Support				
3A5 322-613	DD Council Grants	\$ 3,204,240	\$ 3,204,240	82964
3G6 322-639	Medicaid Waiver	\$ 373,772,814	\$ 373,772,814	82965
3M7 322-650	CAFS Medicaid	\$ 125,924,299	\$ 103,773,730	82966
325 322-608	Grants for Infants and	\$ 1,763,165	\$ 1,763,165	82967
Families with				

Disabilities					
325	322-612	Community Social	\$ 11,500,000	\$ 11,500,000	82968
Service Programs					
TOTAL FED Federal Special Revenue					82969
Fund Group			\$ 517,664,518	\$ 495,513,949	82970
State Special Revenue Fund Group					82971
4K8	322-604	Waiver - Match	\$ 12,000,000	\$ 12,000,000	82972
5H0	322-619	Medicaid Repayment	\$ 25,000	\$ 25,000	82973
5Z1	322-624	County Board Waiver	\$ 82,000,000	\$ 82,000,000	82974
Match					
TOTAL SSR State Special Revenue					82975
Fund Group			\$ 94,025,000	\$ 94,025,000	82976
TOTAL ALL COMMUNITY SERVICES					82977
BUDGET FUND GROUPS			\$ 828,638,645	\$ 807,492,882	82978
RESIDENTIAL AND SUPPORT SERVICES					82979
The Department of Mental Retardation and Developmental					82980
Disabilities may designate a portion of appropriation item					82981
322-413, Residential and Support Services, for the following:					82982
(A) Sermak Class Services used to implement the requirements					82983
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,					82984
Case No. c-2-80-220, United States District Court for the Southern					82985
District of Ohio, Eastern Division;					82986
(B) Medicaid-reimbursed programs other than home and					82987
community-based waiver services, in an amount not to exceed					82988
\$1,000,000 in each fiscal year, that enable persons with mental					82989
retardation and developmental disabilities to live in the					82990
community.					82991
WAIVER STATE MATCH					82992
The purposes for which the foregoing appropriation item					82993
322-416, Waiver State Match, shall be used include the following:					82994

(A) Home and community-based waiver services under Title XIX 82995
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 82996
as amended. 82997

(B) Services contracted by county boards of mental 82998
retardation and developmental disabilities. 82999

(C) To pay the nonfederal share of the cost of one or more 83000
new intermediate-care-facility-for-the-mentally-retarded certified 83001
beds in a county where the county board of mental retardation and 83002
developmental disabilities does not initiate or support the 83003
development or certification of such beds, if the Director of 83004
Mental Retardation and Developmental Disabilities is required by 83005
this act to transfer to the Director of Job and Family Services 83006
funds to pay such nonfederal share. 83007

The Department of Mental Retardation and Developmental 83008
Disabilities may designate a portion of appropriation item 83009
322-416, Waiver State Match, to county boards of mental 83010
retardation and developmental disabilities that have greater need 83011
for various residential and support services because of a low 83012
percentage of residential and support services development in 83013
comparison to the number of individuals with mental retardation or 83014
developmental disabilities in the county. 83015

Of the foregoing appropriation item 322-416, Waiver State 83016
Match, \$9,850,000 in each year of the biennium shall be 83017
distributed by the Department to county boards of mental 83018
retardation and developmental disabilities to support existing 83019
residential facilities waiver and individual options waiver 83020
related to Medicaid activities provided for in the component of a 83021
county board's plan developed under division (A)(2) of section 83022
5126.054 of the Revised Code and approved under section 5123.046 83023
of the Revised Code. Up to \$3,000,000 of these funds in each 83024
fiscal year may be used to implement day-to-day program management 83025

services under division (A)(2) of section 5126.054 of the Revised Code. Up to \$4,200,000 in each fiscal year may be used to implement the program and health and welfare requirements of division (A)(2) of section 5126.054 of the Revised Code.

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In fiscal years 2006 and 2007 not less than \$2,650,000 of these funds shall be used to recruit and retain, under division (A)(2) of section 5126.054 of the Revised Code, the direct care staff necessary to implement the services included in an individualized service plan in a manner that ensures the health and welfare of the individuals being served.

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The method utilized by the department to determine each residential facilities waiver and individual options provider's allocation of such funds in fiscal year 2005 shall be used for allocation purposes to such providers in fiscal years 2006 and 2007, respectively.

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SUPPORTED LIVING

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The purposes for which the foregoing appropriation item 322-417, Supported Living, shall be used include supported living services contracted by county boards of mental retardation and developmental disabilities under sections 5126.40 to 5126.47 of the Revised Code and paying 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 does not initiate or support 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.

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OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS

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Notwithstanding Chapters 5123. and 5126. of the Revised Code,

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the Department of Mental Retardation and Developmental 83057
Disabilities may develop residential and support service programs 83058
funded by appropriation item 322-413, Residential and Support 83059
Services; appropriation item 322-416, Waiver State Match; or 83060
appropriation item 322-417, Supported Living, that enable persons 83061
with mental retardation and developmental disabilities to live in 83062
the community. Notwithstanding Chapter 5121. and section 5123.122 83063
of the Revised Code, the Department may waive the support 83064
collection requirements of those statutes for persons in community 83065
programs developed by the Department under this section. The 83066
Department shall adopt rules under Chapter 119. of the Revised 83067
Code or may use existing rules for the implementation of these 83068
programs. 83069

FAMILY SUPPORT SERVICES 83070

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 83071
5126.11 of the Revised Code, the Department of Mental Retardation 83072
and Developmental Disabilities may implement programs funded by 83073
appropriation item 322-451, Family Support Services, to provide 83074
assistance to persons with mental retardation or developmental 83075
disabilities and their families who are living in the community. 83076
The department shall adopt rules to implement these programs. The 83077
department may also use the foregoing appropriation item 322-451, 83078
Family Support Services, to pay the nonfederal share of the cost 83079
of one or more new 83080
intermediate-care-facility-for-the-mentally-retarded certified 83081
beds in a county where the county board of mental retardation and 83082
developmental disabilities initiates or supports the development 83083
or certification of such beds, if the Director of Mental 83084
Retardation and Developmental Disabilities is required by this act 83085
to transfer to the Director of Job and Family Services funds to 83086
pay such nonfederal share. 83087

SERVICE AND SUPPORT ADMINISTRATION 83088

The foregoing appropriation item 322-452, Service and Support Administration, shall be allocated to county boards of mental retardation and developmental disabilities for the purpose of providing service and support administration services and to assist in bringing state funding for all department-approved service and support administrators within county boards of mental retardation and developmental disabilities to the level authorized in division (C) of section 5126.15 of the Revised Code. The department may request approval from the Controlling Board to transfer any unobligated appropriation authority from other state General Revenue Fund appropriation items within the department's budget to appropriation item 322-452, Service and Support Administration, to be used to meet the statutory funding level in division (C) of section 5126.15 of the Revised Code.

Notwithstanding division (C) of section 5126.15 of the Revised Code and subject to funding in appropriation item 322-452, Service and Support Administration, no county may receive less than its allocation in fiscal year 1995. Wherever case management services are referred to in any law, contract, or other document, the reference shall be deemed to refer to service and support administration. No action or proceeding pending on the effective date of this section is affected by the renaming of case management services as service and support administration.

The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all employment contracts.

The Department also may use the foregoing appropriation item 83121
322-452, Service and Support Administration, to pay the nonfederal 83122
share of the cost of one or more new 83123
intermediate-care-facility-for-the-mentally-retarded certified 83124
beds in a county where the county board of mental retardation and 83125
developmental disabilities initiates or supports the development 83126
or certification of such beds, if the Director of Mental 83127
Retardation and Developmental Disabilities is required by this act 83128
to transfer to the Director of Job and Family Services funds to 83129
pay such nonfederal share. 83130

STATE SUBSIDIES TO MR/DD BOARDS 83131

Notwithstanding section 5126.12 of the Revised Code, for 83132
fiscal year 2006, the Department shall, if sufficient funds as 83133
determined by the Department are available, use the foregoing 83134
appropriation item 322-501, County Boards Subsidies, to pay each 83135
county board of mental retardation and developmental disabilities 83136
an amount that is equal to the amount such board received in 83137
fiscal year 2005. If the Department determines that there are not 83138
sufficient funds available in appropriation item 322-501, County 83139
Boards Subsidies, for this purpose, the Department shall pay to 83140
each county board an amount that is proportionate to the amount 83141
such board received in fiscal year 2005. Proportionality shall be 83142
determined by comparing the payment a county board received in a 83143
category in fiscal year 2005 to the total payments distributed to 83144
all county boards for such category in fiscal year 2005. For 83145
fiscal year 2007, the Department shall pay to each county board an 83146
amount that is determined by an allocation formula to be developed 83147
by the Department that considers the applicable factors in section 83148
5126.12 of the Revised Code. 83149

The Department also may use the foregoing appropriation item 83150
322-501, County Boards Subsidies, to pay the nonfederal share of 83151
the cost of one or more new 83152

intermediate-care-facility-for-the-mentally-retarded certified 83153
beds in a county where the county board of mental retardation and 83154
developmental disabilities initiates or supports the development 83155
or certification of such beds, if the Director of Mental 83156
Retardation and Developmental Disabilities is required by this act 83157
to transfer to the Director of Job and Family Services funds to 83158
pay such nonfederal share. 83159

WAIVER - MATCH 83160

The foregoing appropriation item 322-604, Waiver - Match 83161
(Fund 4K8), shall be used as state matching funds for the home and 83162
community-based waivers. 83163

COUNTY BOARD WAIVER MATCH 83164

The Director of Mental Retardation and Developmental 83165
Disabilities shall transfer, through intrastate transfer vouchers, 83166
cash from any allowable General Revenue Fund appropriation item to 83167
Fund 5Z1, appropriation item 322-624, County Board Waiver Match. 83168
(The amounts being transferred reflect the amounts that county 83169
boards pledge from their state General Revenue Funds allocations 83170
to cover the cost of providing the non-federal match for waiver 83171
services.) 83172

TRANSFER OF FUNDS FOR THE FAMILY AND CHILDREN FIRST CABINET 83173
COUNCIL TO THE DEPARTMENT OF MENTAL HEALTH 83174

On July 1, 2005, or as soon as possible thereafter, the 83175
Director of Mental Retardation and Developmental Disabilities 83176
shall certify the remaining cash balance in Fund 4V1, 83177
Miscellaneous Use, to the Director of Budget and Management. Upon 83178
receipt of the certification, the Director of Budget and 83179
Management shall transfer that amount and re-establish existing 83180
encumbrances in the Department of Mental Health, Fund 232, Family 83181
and Children First Administration Fund. When this transfer has 83182
been completed, Fund 4V1 shall be abolished. 83183

On November 1, 2005, or as soon as possible thereafter, the 83184
Director of Mental Retardation and Developmental Disabilities 83185
shall certify the remaining cash balance in Fund 4J6, Youth 83186
Cluster, to the Director of Budget and Management, who upon 83187
receipt shall transfer that amount to the General Revenue Fund and 83188
increase the Department of Mental Health's GRF appropriation item 83189
335-404, Behavioral Health Services-Children, by the same amount. 83190
When this transfer has been completed, Fund 4J6 shall be 83191
abolished. 83192

Section 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM 83193

(A) As used in this section, "habilitation center services" 83194
has the same meaning as in former section 5111.041 of the Revised 83195
Code as that section existed on June 30, 2005. 83196

(B) The Department of Mental Retardation and Developmental 83197
Disabilities may use funds appropriated to the Department for the 83198
purpose of habilitation center services to satisfy a claim or 83199
contingent claim for habilitation center services provided before 83200
July 1, 2005, if the Department receives the claim or contingent 83201
claim before July 1, 2006. The Department has no liability to 83202
satisfy either of the following: 83203

(1) A claim for habilitation center services provided before 83204
July 1, 2005, if the Department receives the claim on or after 83205
July 1, 2006. 83206

(2) A claim for habilitation center services provided on or 83207
after July 1, 2005. 83208

(C) The Department of Mental Retardation and Developmental 83209
Disabilities may inform individuals who received habilitation 83210
center services under the community alternative funding system on 83211
June 30, 2005, and such individuals' representatives about 83212
alternative services that may be available for the individuals. 83213

The Department may require county boards of mental retardation and developmental disabilities to provide such information to the individuals and their representatives.

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Section 209.09.12. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED

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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.

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Section 209.09.15. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

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The Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.

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Section 209.09.16. TRANSFER OF ADMINISTRATION OF FAMILY AND CHILDREN FIRST

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The Department of Mental Retardation and Developmental Disabilities shall transfer the administrative duties related to the operation of the Ohio Family and Children First Cabinet Council to the Department of Mental Health. As part of the transfer, all of the following shall occur on July 1, 2005, or as soon as possible thereafter as the Departments of Mental Retardation and Developmental Disabilities and Mental Health are able to make the transfers:

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(A) Individuals employed by the Department of Mental Retardation and Developmental Disabilities on June 30, 2005, to perform administrative functions for the Ohio Family and Children First Cabinet Council shall be transferred to the Department of Mental Health.

(B) The assets, liabilities, equipment, and records, irrespective of form or medium, related to the administrative duties of the Ohio Family and Children First Cabinet Council shall transfer or be transferred to the Department of Mental Health;

(C) The Department of Mental Health shall assume the obligations of the Ohio Family and Children First Cabinet Council's administrative duties.

Section 209.09.18. RESIDENTIAL FACILITIES

General Revenue Fund				83256	
GRF 323-321 Residential Facilities	\$	101,764,366	\$	100,457,600	83257
Operations					83258
TOTAL GRF General Revenue Fund	\$	101,764,366	\$	100,457,600	83259
General Services Fund Group					83260
152 323-609 Residential Facilities	\$	912,177	\$	912,177	83261
Support					83262
TOTAL GSF General Services Fund Group					83263
Fund Group	\$	912,177	\$	912,177	83264
Federal Special Revenue Fund Group					83265
3A4 323-605 Developmental Center	\$	120,000,000	\$	120,000,000	83266
Operation Expenses					
325 323-608 Foster Grandparent Program	\$	575,000	\$	575,000	83267
TOTAL FED Federal Special Revenue Fund Group					83268
Fund Group	\$	120,575,000	\$	120,575,000	83269
State Special Revenue Fund Group					83270

221 322-620	Supplement Service	\$	150,000	\$	150,000	83271
	Trust					
489 323-632	Developmental Center	\$	12,125,628	\$	12,125,628	83272
	Direct Care Support					
TOTAL SSR	State Special Revenue					83273
Fund Group		\$	12,275,628	\$	12,275,628	83274
TOTAL ALL RESIDENTIAL FACILITIES						83275
BUDGET FUND GROUPS		\$	235,527,171	\$	234,220,405	83276
DEPARTMENT TOTAL						83277
GENERAL REVENUE FUND		\$	352,880,570	\$	353,397,967	83278
DEPARTMENT TOTAL						83279
GENERAL SERVICES FUND GROUP		\$	2,162,177	\$	1,612,177	83280
DEPARTMENT TOTAL						83281
FEDERAL SPECIAL REVENUE FUND GROUP		\$	652,727,850	\$	630,577,281	83282
DEPARTMENT TOTAL						83283
STATE SPECIAL REVENUE FUND GROUP		\$	114,300,628	\$	114,300,628	83284
TOTAL DEPARTMENT OF MENTAL						83285
RETARDATION AND DEVELOPMENTAL						83286
DISABILITIES		\$	1,122,071,225	\$	1,100,156,093	83287

Section 209.09.21. (A) As used in this section: 83289

(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. 83290
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(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 83294
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(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 83296
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share of the cost under the Medicaid Program for those beds. The 83301
Director shall use only the following funds for the transfer: 83302

(1) If the beds are located in a county served by a county 83303
board of mental retardation and developmental disabilities that 83304
does not initiate or support the beds' certification, funds 83305
appropriated to the Department of Mental Retardation and 83306
Developmental Disabilities for home and community-based services 83307
and supported living for which the Director is authorized to make 83308
allocations to county boards; 83309

(2) If the beds are located in a county served by a county 83310
board that initiates or supports the beds' certification, funds 83311
appropriated to the Department for family support services, 83312
service and support administration, and other services for which 83313
the Director is authorized to make allocations to counties. 83314

(C) The funds that the Director transfers under division 83315
(B)(2) of this section shall be funds that the Director has 83316
allocated to the county board serving the county in which the beds 83317
are located unless the amount of the allocation is insufficient to 83318
pay the entire nonfederal share of the cost under the Medicaid 83319
Program for those beds. If the allocation is insufficient, the 83320
Director shall use as much of such funds allocated to other 83321
counties as is needed to make up the difference. 83322

Section 209.09.24. HABILITATION CENTERS PROVIDING MEDICAID 83323
CASE MANAGEMENT SERVICES 83324

A habilitation center holding on June 30, 2005, a valid 83325
certificate issued under former section 5123.041 of the Revised 83326
Code may provide Medicaid case management services until the 83327
earlier of the following: 83328

(A) The date the United States Secretary of Health and Human 83329
Services approves an amendment to the state Medicaid plan that 83330

provides that only county boards of mental retardation and 83331
developmental disabilities may provide Medicaid case management 83332
services; 83333

(B) The habilitation center ceases to meet the requirements 83334
that were in effect on June 30, 2005, for the certificate issued 83335
under former section 5123.041 of the Revised Code. 83336

Section 209.09.27. INTENT OF SECTION 5123.045 OF THE REVISED 83337
CODE 83338

The legislative intent of section 5123.045 of the Revised 83339
Code is to continue the requirement that payment for home and 83340
community-based waiver services is limited to settings of not more 83341
than four individuals and/or the owner of the residence is not the 83342
provider of the services to the individuals living in that 83343
residence. 83344

Section 209.12. MIH COMMISSION ON MINORITY HEALTH 83345

General Revenue Fund 83346

GRF 149-321 Operating Expenses	\$	539,319	\$	539,319	83347
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GRF 149-501 Minority Health Grants	\$	670,965	\$	670,965	83348
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GRF 149-502 Lupus Program	\$	136,126	\$	136,126	83349
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TOTAL GRF General Revenue Fund	\$	1,346,410	\$	1,346,410	83350
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Federal Special Revenue Fund Group 83351

3J9 149-602 Federal Grants	\$	150,000	\$	150,000	83352
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TOTAL FED Federal Special Revenue 83353

Fund Group	\$	150,000	\$	150,000	83354
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State Special Revenue Fund Group 83355

4C2 149-601 Minority Health	\$	250,000	\$	150,000	83356
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TOTAL SSR State Special Revenue 83357

Fund Group	\$	250,000	\$	150,000	83358
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TOTAL ALL BUDGET FUND GROUPS	\$	1,746,410	\$	1,646,410	83359
LUPUS PROGRAM					83360
The foregoing appropriation item 149-502, Lupus Program,					83361
shall be used to provide grants for programs in patient, public,					83362
and professional education on the subject of systemic lupus					83363
erythematosus; to encourage and develop local centers on lupus					83364
information gathering and screening; and to provide outreach to					83365
minority women.					83366
Section 209.15. CRB MOTOR VEHICLE COLLISION REPAIR					83367
REGISTRATION BOARD					83368
General Service Fund Group					83369
5H9 865-609 Operating Expenses -	\$	325,047	\$	0	83370
CRB					
TOTAL GSF General Services					83371
Fund Group	\$	325,047	\$	0	83372
TOTAL ALL BUDGET FUND GROUPS	\$	325,047	\$	0	83373
Section 209.18. DNR DEPARTMENT OF NATURAL RESOURCES					83375
General Revenue Fund					83376
GRF 725-401 Wildlife-GRF Central	\$	1,000,000	\$	1,000,000	83377
Support					
GRF 725-404 Fountain Square Rental	\$	1,025,300	\$	1,092,000	83378
Payments - OBA					
GRF 725-407 Conservation Reserve	\$	1,000,000	\$	1,000,000	83379
Enhancement Program					
GRF 725-413 OPFC Lease Rental	\$	18,699,100	\$	20,962,800	83380
Payments					
GRF 725-423 Stream and Ground	\$	311,910	\$	311,910	83381
Water Gauging					
GRF 725-425 Wildlife License	\$	646,319	\$	646,319	83382
Reimbursement					

GRF 725-456	Canal Lands	\$	332,859	\$	332,859	83383
GRF 725-502	Soil and Water	\$	9,836,436	\$	9,836,436	83384
	Districts					
GRF 725-903	Natural Resources	\$	25,866,000	\$	24,359,100	83385
	General Obligation					
	Debt Service					
GRF 727-321	Division of Forestry	\$	8,541,511	\$	8,541,511	83386
GRF 728-321	Division of Geological	\$	1,630,000	\$	1,630,000	83387
	Survey					
GRF 729-321	Office of Information	\$	440,895	\$	440,895	83388
	Technology					
GRF 730-321	Division of Parks and	\$	37,924,841	\$	39,874,841	83389
	Recreation					
GRF 731-321	Office of Coastal	\$	259,707	\$	259,707	83390
	Management					
GRF 733-321	Division of Water	\$	3,207,619	\$	3,207,619	83391
GRF 736-321	Division of	\$	3,118,703	\$	3,118,703	83392
	Engineering					
GRF 737-321	Division of Soil and	\$	4,074,788	\$	4,074,788	83393
	Water					
GRF 738-321	Division of Real	\$	2,291,874	\$	2,291,874	83394
	Estate and Land					
	Management					
GRF 741-321	Division of Natural	\$	3,009,505	\$	3,009,505	83395
	Areas and Preserves					
GRF 744-321	Division of Mineral	\$	3,068,167	\$	3,068,167	83396
	Resources Management					
TOTAL GRF	General Revenue Fund	\$	126,285,534	\$	129,059,034	83397
	General Services Fund Group					83398
155 725-601	Departmental Projects	\$	3,135,821	\$	3,011,726	83399
157 725-651	Central Support	\$	6,528,675	\$	6,528,675	83400
	Indirect					
204 725-687	Information Services	\$	4,676,627	\$	4,676,627	83401

206	725-689	REALM Support Services	\$	475,000	\$	475,000	83402
207	725-690	Real Estate Services	\$	64,000	\$	64,000	83403
223	725-665	Law Enforcement Administration	\$	2,096,225	\$	2,096,225	83404
227	725-406	Parks Projects Personnel	\$	175,000	\$	110,000	83405
4D5	725-618	Recycled Materials	\$	50,000	\$	50,000	83406
4S9	725-622	NatureWorks Personnel	\$	472,648	\$	307,648	83407
4X8	725-662	Water Resources Council	\$	125,000	\$	125,000	83408
430	725-671	Canal Lands	\$	797,582	\$	847,582	83409
508	725-684	Natural Resources Publications	\$	157,792	\$	157,792	83410
510	725-631	Maintenance - State-owned Residences	\$	260,849	\$	260,849	83411
516	725-620	Water Management	\$	2,442,956	\$	2,459,120	83412
635	725-664	Fountain Square Facilities Management	\$	3,182,223	\$	3,190,223	83413
697	725-670	Submerged Lands	\$	542,011	\$	542,011	83414
TOTAL GSF General Services							83415
Fund Group			\$	25,182,409	\$	24,902,478	83416
Federal Special Revenue Fund Group							83417
3B3	725-640	Federal Forest Pass-Thru	\$	150,000	\$	150,000	83418
3B4	725-641	Federal Flood Pass-Thru	\$	350,000	\$	350,000	83419
3B5	725-645	Federal Abandoned Mine Lands	\$	14,310,497	\$	14,307,666	83420
3B6	725-653	Federal Land and Water Conservation Grants	\$	5,000,000	\$	5,000,000	83421
3B7	725-654	Reclamation - Regulatory	\$	2,107,292	\$	2,107,291	83422
3P0	725-630	Natural Areas and	\$	315,000	\$	315,000	83423

		Preserves - Federal					
3P1	725-632	Geological Survey - Federal	\$	479,651	\$	479,651	83424
3P2	725-642	Oil and Gas-Federal	\$	362,933	\$	367,912	83425
3P3	725-650	Coastal Management - Federal	\$	1,592,923	\$	1,607,686	83426
3P4	725-660	Water - Federal	\$	419,766	\$	420,525	83427
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	2,225,000	\$	2,225,000	83428
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871	83429
328	725-603	Forestry Federal	\$	1,813,827	\$	2,228,081	83430
332	725-669	Federal Mine Safety Grant	\$	258,102	\$	258,102	83431
TOTAL FED Federal Special Revenue							83432
Fund Group			\$	30,963,862	\$	31,395,785	83433
State Special Revenue Fund Group							83434
4J2	725-628	Injection Well Review	\$	93,957	\$	79,957	83435
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000	83436
4U6	725-668	Scenic Rivers Protection	\$	407,100	\$	407,100	83437
5B3	725-674	Mining Regulation	\$	28,850	\$	28,850	83438
5BV	725-683	Soil and Water Districts	\$	1,850,000	\$	1,850,000	83439
5P2	725-634	Wildlife Boater Angler Administration	\$	4,200,000	\$	3,500,000	83440
509	725-602	State Forest	\$	2,291,664	\$	2,591,664	83441
511	725-646	Ohio Geological Mapping	\$	549,310	\$	549,310	83442
512	725-605	State Parks Operations	\$	26,814,288	\$	26,814,288	83443
512	725-680	Parks Facilities Maintenance	\$	2,576,240	\$	2,576,240	83444
514	725-606	Lake Erie Shoreline	\$	612,075	\$	657,113	83445
518	725-643	Oil and Gas Permit	\$	2,674,377	\$	2,674,378	83446

		Fees					
518	725-677	Oil and Gas Well	\$	1,200,000	\$	1,200,000	83447
		Plugging					
521	725-627	Off-Road Vehicle	\$	143,490	\$	143,490	83448
		Trails					
522	725-656	Natural Areas Checkoff	\$	1,550,670	\$	1,550,670	83449
		Funds					
526	725-610	Strip Mining	\$	1,932,492	\$	1,932,492	83450
		Administration Fee					
527	725-637	Surface Mining	\$	2,312,815	\$	2,322,702	83451
		Administration					
529	725-639	Unreclaimed Land Fund	\$	623,356	\$	631,257	83452
531	725-648	Reclamation Forfeiture	\$	2,061,861	\$	2,062,237	83453
532	725-644	Litter Control and	\$	7,100,000	\$	7,100,000	83454
		Recycling					
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	83455
615	725-661	Dam Safety	\$	365,223	\$	365,223	83456
		TOTAL SSR State Special Revenue					83457
		Fund Group	\$	60,487,768	\$	60,136,971	83458
		Clean Ohio Fund Group					83459
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	83460
		TOTAL CLF Clean Ohio Fund Group	\$	155,000	\$	155,000	83461
		Wildlife Fund Group					83462
015	740-401	Division of Wildlife	\$	49,447,500	\$	50,447,500	83463
		Conservation					
815	725-636	Cooperative Management	\$	120,449	\$	120,449	83464
		Projects					
816	725-649	Wetlands Habitat	\$	966,885	\$	966,885	83465
817	725-655	Wildlife Conservation	\$	5,000,000	\$	5,000,000	83466
		Checkoff Fund					
818	725-629	Cooperative Fisheries	\$	1,500,000	\$	1,500,000	83467
		Research					

819	725-685	Ohio River Management	\$	128,584	\$	128,584	83468
TOTAL WLF Wildlife Fund Group			\$	57,163,418	\$	58,163,418	83469
Waterways Safety Fund Group							83470
086	725-414	Waterways Improvement	\$	3,792,343	\$	3,792,343	83471
086	725-418	Buoy Placement	\$	52,182	\$	52,182	83472
086	725-501	Waterway Safety Grants	\$	137,867	\$	137,867	83473
086	725-506	Watercraft Marine	\$	576,153	\$	576,153	83474
Patrol							
086	725-513	Watercraft Educational	\$	366,643	\$	366,643	83475
Grants							
086	739-401	Division of Watercraft	\$	20,027,909	\$	20,086,681	83476
5AW	725-682	Watercraft Revolving	\$	3,000,000	\$	1,000,000	83477
Loans							
TOTAL WSF Waterways Safety Fund							83478
Group			\$	27,953,097	\$	26,011,869	83479
Holding Account Redistribution Fund Group							83480
R17	725-659	Performance Cash Bond	\$	374,263	\$	374,263	83481
Refunds							
R43	725-624	Forestry	\$	2,500,000	\$	1,500,000	83482
TOTAL 090 Holding Account							83483
Redistribution Fund Group			\$	2,874,263	\$	1,874,263	83484
Accrued Leave Liability Fund Group							83485
4M8	725-675	FOP Contract	\$	20,844	\$	20,844	83486
TOTAL ALF Accrued Leave							83487
Liability Fund Group			\$	20,844	\$	20,844	83488
TOTAL ALL BUDGET FUND GROUPS			\$	331,086,195	\$	331,719,662	83489

Section 209.18.03. CENTRAL SUPPORT INDIRECT 83491

With the exception of the Division of Wildlife, whose direct 83492
and indirect central support charges shall be paid out of the 83493
General Revenue Fund from the foregoing appropriation item 83494
725-401, Wildlife-GRF Central Support, the Department of Natural 83495

Resources, with approval of the Director of Budget and Management, 83496
shall utilize a methodology for determining each division's 83497
payments into the Central Support Indirect Fund (Fund 157). The 83498
methodology used shall contain the characteristics of 83499
administrative ease and uniform application in compliance with 83500
federal grant requirements. It may include direct cost charges for 83501
specific services provided. Payments to the Central Support 83502
Indirect Fund (Fund 157) shall be made using an intrastate 83503
transfer voucher. 83504

Section 209.18.06. FOUNTAIN SQUARE 83505

The foregoing appropriation item 725-404, Fountain Square 83506
Rental Payments - OBA, shall be used by the Department of Natural 83507
Resources to meet all payments required to be made to the Ohio 83508
Building Authority during the period from July 1, 2005, to June 83509
30, 2007, pursuant to leases and agreements with the Ohio Building 83510
Authority under section 152.241 of the Revised Code, but limited 83511
to the aggregate amount of \$2,117,300. 83512

The Director of Natural Resources, using intrastate transfer 83513
vouchers, shall make payments to the General Revenue Fund from 83514
funds other than the General Revenue Fund to reimburse the General 83515
Revenue Fund for the other funds' shares of the lease rental 83516
payments to the Ohio Building Authority. The transfers from the 83517
non-General Revenue funds shall be made within 10 days of the 83518
payment to the Ohio Building Authority for the actual amounts 83519
necessary to fulfill the leases and agreements pursuant to section 83520
152.241 of the Revised Code. 83521

The foregoing appropriation item 725-664, Fountain Square 83522
Facilities Management (Fund 635), shall be used for payment of 83523
repairs, renovation, utilities, property management, and building 83524
maintenance expenses for the Fountain Square Complex. Cash 83525
transferred by intrastate transfer vouchers from various 83526

department funds and rental income received by the Department of 83527
Natural Resources shall be deposited into the Fountain Square 83528
Facilities Management Fund (Fund 635). 83529

LEASE RENTAL PAYMENTS 83530

The foregoing appropriation item 725-413, OPFC Lease Rental 83531
Payments, shall be used to meet all payments at the times they are 83532
required to be made during the period from July 1, 2005, to June 83533
30, 2007, by the Department of Natural Resources pursuant to 83534
leases and agreements made under section 154.22 of the Revised 83535
Code, but limited to the aggregate amount of \$50,375,100. Nothing 83536
in this act shall be deemed to contravene the obligation of the 83537
state to pay, without necessity for further appropriation, from 83538
the sources pledged thereto, the bond service charges on 83539
obligations issued pursuant to section 154.22 of the Revised Code. 83540

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 83541

The foregoing appropriation item 725-903, Natural Resources 83542
General Obligation Debt Service, shall be used to pay all debt 83543
service and related financing costs at the times they are required 83544
to be made pursuant to sections 151.01 and 151.05 of the Revised 83545
Code during the period from July 1, 2005, to June 30, 2007. The 83546
Office of the Sinking Fund or the Director of Budget and 83547
Management shall effectuate the required payments by an intrastate 83548
transfer voucher. 83549

Section 209.18.09. WILDLIFE LICENSE REIMBURSEMENT 83550

Notwithstanding the limits of the transfer from the General 83551
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 83552
of the Revised Code, up to the amount available in appropriation 83553
item 725-425, Wildlife License Reimbursement, may be transferred 83554
from the General Revenue Fund to the Wildlife Fund (Fund 015). 83555
Pursuant to the certification of the Director of Budget and 83556

Management of the amount of foregone revenue in accordance with 83557
section 1533.15 of the Revised Code, the foregoing appropriation 83558
item in the General Revenue Fund, appropriation item 725-425, 83559
Wildlife License Reimbursement, shall be used to reimburse the 83560
Wildlife Fund (Fund 015) for the cost of hunting and fishing 83561
licenses and permits issued after June 30, 1990, to individuals 83562
who are exempted under the Revised Code from license, permit, and 83563
stamp fees. 83564

CANAL LANDS 83565

The foregoing appropriation item 725-456, Canal Lands, shall 83566
be used to transfer funds to the Canal Lands Fund (Fund 430) to 83567
provide operating expenses for the State Canal Lands Program. The 83568
transfer shall be made using an intrastate transfer voucher and 83569
shall be subject to the approval of the Director of Budget and 83570
Management. 83571

SOIL AND WATER DISTRICTS 83572

In addition to state payments to soil and water conservation 83573
districts authorized by section 1515.10 of the Revised Code, the 83574
Department of Natural Resources may pay to any soil and water 83575
conservation district, from authority in appropriation item 83576
725-502, Soil and Water Districts, an annual amount not to exceed 83577
\$30,000, upon receipt of a request and justification from the 83578
district and approval by the Ohio Soil and Water Conservation 83579
Commission. The county auditor shall credit the payments to the 83580
special fund established under section 1515.10 of the Revised Code 83581
for the local soil and water conservation district. Moneys 83582
received by each district shall be expended for the purposes of 83583
the district. The foregoing appropriation item 725-683, Soil and 83584
Water Districts, shall be expended for the purposes described 83585
above, except that the funding source for this appropriation shall 83586
be a fee applied on the disposal of construction and demolition 83587

debris as provided in section 1515.14 of the Revised Code, as
amended by this act. 83588
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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. 83590
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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. 83593
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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. 83596
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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. 83599
83600
83601

PARKS AND RECREATION 83602

Of the foregoing appropriation item 730-321, Division of
Parks and Recreation, \$50,000 in each fiscal year shall be used
for the Fairport Harbor Port Authority boat launch in Lake County. 83603
83604
83605

FUND CONSOLIDATION 83606

The Director of Budget and Management shall transfer an
amount certified by the Director of Natural Resources from the
Central Support Indirect Fund (Fund 157) to the Law Enforcement
Administration Fund (Fund 223) and the Information Services Fund
(Fund 204) to implement a direct cost recovery plan. 83607
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STATE PARK DEPRECIATION RESERVE 83612

The foregoing appropriation item 725-680, Parks Facilities
Maintenance, shall be used by the Division of Parks and Recreation
to maintain state park revenue producing facilities in the best
economic operating condition and to repair and replace equipment
used in the operation of state park revenue producing facilities. 83613
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Upon certification of the Director of Natural Resources, the 83618
Director of Budget and Management shall transfer the cash balance 83619
in the Depreciation Reserve Fund (Fund 161), which is abolished in 83620
section 1541.221 of the Revised Code, as amended by this act, to 83621
the State Park Fund (Fund 512), which is created in section 83622
1541.22 of the Revised Code. All outstanding encumbrances shall be 83623
cancelled on October 1, 2005. 83624

OIL AND GAS WELL PLUGGING 83625

The foregoing appropriation item 725-677, Oil and Gas Well 83626
Plugging, shall be used exclusively for the purposes of plugging 83627
wells and to properly restore the land surface of idle and orphan 83628
oil and gas wells pursuant to section 1509.071 of the Revised 83629
Code. No funds from the appropriation item shall be used for 83630
salaries, maintenance, equipment, or other administrative 83631
purposes, except for those costs directly attributed to the 83632
plugging of an idle or orphan well. Appropriation authority from 83633
this appropriation item shall not be transferred to any other fund 83634
or line item. 83635

LITTER CONTROL AND RECYCLING 83636

Of the foregoing appropriation item, 725-644, Litter Control 83637
and Recycling, not more than \$1,500,000 may be used in each fiscal 83638
year for the administration of the Recycling and Litter Prevention 83639
program. The remaining \$5,600,000 shall be used to provide grants 83640
to local governments. 83641

CLEAN OHIO OPERATING EXPENSES 83642

The foregoing appropriation item 725-405, Clean Ohio 83643
Operating, shall be used by the Department of Natural Resources in 83644
administering section 1519.05 of the Revised Code. 83645

WATERCRAFT MARINE PATROL 83646

Of the foregoing appropriation item 739-401, Division of 83647

Watercraft, not more than \$200,000 in each fiscal year shall be 83648
expended for the purchase of equipment for marine patrols 83649
qualifying for funding from the Department of Natural Resources 83650
pursuant to section 1547.67 of the Revised Code. Proposals for 83651
equipment shall accompany the submission of documentation for 83652
receipt of a marine patrol subsidy pursuant to section 1547.67 of 83653
the Revised Code and shall be loaned to eligible marine patrols 83654
pursuant to a cooperative agreement between the Department of 83655
Natural Resources and the eligible marine patrol. 83656

WATERCRAFT REVOLVING LOAN PROGRAM 83657

Upon certification by the Director of Natural Resources, the 83658
Director of Budget and Management shall transfer an amount not to 83659
exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 83660
in fiscal year 2007 so certified from the Waterways Safety Fund 83661
(Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The 83662
moneys shall be used pursuant to section 1547.721 of the Revised 83663
Code. 83664

PARKS CAPITAL EXPENSES FUND 83665

There is hereby created in the state treasury the Parks 83666
Capital Expenses Fund (Fund 227). The fund shall be used to pay 83667
for design, engineering, and planning costs incurred by the 83668
Department of Natural Resources for capital parks projects. 83669

The Director of Natural Resources shall submit to the 83670
Director of Budget and Management the estimated design, 83671
engineering, and planning costs of capital-related work to be done 83672
by Department of Natural Resources staff for parks projects. If 83673
the Director of Budget and Management approves the estimated 83674
costs, the Director may release appropriations from appropriation 83675
item 725-406, Parks Projects Personnel, for those purposes. Upon 83676
release of the appropriations, the Department of Natural Resources 83677
shall pay for these expenses from the Parks Capital Expenses Fund 83678

(Fund 227). Expenses paid from Fund 227 shall be reimbursed by the
Parks and Recreation Improvement Fund (Fund 035) using an
intrastate transfer voucher.

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Section 209.21. NUR STATE BOARD OF NURSING

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General Services Fund Group

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4K9 884-609 Operating Expenses \$ 5,661,280 \$ 5,661,280

83684

5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000

83685

TOTAL GSF General Services

83686

Fund Group \$ 5,666,280 \$ 5,666,280

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TOTAL ALL BUDGET FUND GROUPS \$ 5,666,280 \$ 5,666,280

83688

NURSING SPECIAL ISSUES

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The foregoing appropriation item 884-601, Nursing Special
Issues (Fund 5P8), shall be used to pay the costs the Board of
Nursing incurs in implementing section 4723.062 of the Revised
Code.

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**Section 209.24. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY,
AND ATHLETIC TRAINERS BOARD**

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83695

General Services Fund Group

83696

4K9 890-609 Operating Expenses \$ 824,057 \$ 0

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TOTAL GSF General Services Fund \$ 824,057 \$ 0

83698

Group

TOTAL ALL BUDGET FUND GROUPS \$ 824,057 \$ 0

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Section 209.27. OLA OHIOANA LIBRARY ASSOCIATION

83701

General Revenue Fund

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GRF 355-501 Library Subsidy \$ 100,000 \$ 100,000

83703

TOTAL GRF General Revenue Fund \$ 100,000 \$ 100,000

83704

TOTAL ALL BUDGET FUND GROUPS \$ 100,000 \$ 100,000

83705

Section 209.30. ODB OHIO OPTICAL DISPENSERS BOARD				83707
General Services Fund Group				83708
4K9 894-609 Operating Expenses	\$	316,517	\$	0 83709
TOTAL GSF General Services				83710
Fund Group	\$	316,517	\$	0 83711
TOTAL ALL BUDGET FUND GROUPS				0 83712
 Section 209.33. OPT STATE BOARD OF OPTOMETRY				83714
General Services Fund Group				83715
4K9 885-609 Operating Expenses	\$	336,771	\$	0 83716
TOTAL GSF General Services				83717
Fund Group	\$	336,771	\$	0 83718
TOTAL ALL BUDGET FUND GROUPS				0 83719
 Section 209.36. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS				83721 83722
General Services Fund Group				83723
4K9 973-609 Operating Expenses	\$	99,571	\$	0 83724
TOTAL GSF General Services				83725
Fund Group	\$	99,571	\$	0 83726
TOTAL ALL BUDGET FUND GROUPS				0 83727
 Section 209.39. PBR STATE PERSONNEL BOARD OF REVIEW				83728
General Revenue Fund				83729
GRF 124-321 Operating	\$	1,116,170	\$ 1,148,000	83730
TOTAL GRF General Revenue Fund				\$ 1,116,170 \$ 1,148,000 83731
General Services Fund Group				83732
636 124-601 Transcript and Other	\$	12,000	\$ 15,000	83733
TOTAL GSF General Services				83734
Fund Group	\$	12,000	\$ 15,000	83735
TOTAL ALL BUDGET FUND GROUPS				\$ 1,128,170 \$ 1,163,000 83736

TRANSCRIPT AND OTHER				83737
The foregoing appropriation item 124-601, Transcript and				83738
Other, may be used to defray the costs of producing an				83739
administrative record.				83740
Section 209.42. PRX STATE BOARD OF PHARMACY				83741
General Services Fund Group				83742
4A5 887-605 Drug Law Enforcement	\$	75,550	\$ 75,550	83743
4K9 887-609 Operating Expenses	\$	5,650,537	\$ 5,400,537	83744
TOTAL GSF General Services				83745
Fund Group	\$	5,726,087	\$ 5,476,087	83746
TOTAL ALL BUDGET FUND GROUPS	\$	5,726,087	\$ 5,476,087	83747
Section 209.45. PSY STATE BOARD OF PSYCHOLOGY				83749
General Services Fund Group				83750
4K9 882-609 Operating Expenses	\$	566,112	\$ 0	83751
TOTAL GSF General Services				83752
Fund Group	\$	566,112	\$ 0	83753
TOTAL ALL BUDGET FUND GROUPS	\$	566,112	\$ 0	83754
Section 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION				83756
General Revenue Fund				83757
GRF 019-321 Public Defender	\$	1,295,570	\$ 1,262,439	83758
Administration				
GRF 019-401 State Legal Defense	\$	5,744,601	\$ 5,704,117	83759
Services				
GRF 019-403 Multi-County: State	\$	823,620	\$ 823,620	83760
Share				
GRF 019-404 Trumbull County -	\$	256,380	\$ 256,380	83761
State Share				
GRF 019-405 Training Account	\$	31,324	\$ 31,324	83762
GRF 019-501 County Reimbursement	\$	30,000,000	\$ 30,000,000	83763

TOTAL GRF General Revenue Fund	\$	38,151,495	\$	38,077,880	83764
General Services Fund Group					83765
101 019-602 Inmate Legal Assistance	\$	53,086	\$	32,338	83766
406 019-603 Training and Publications	\$	16,000	\$	16,000	83767
407 019-604 County Representation	\$	186,146	\$	188,810	83768
408 019-605 Client Payments	\$	614,027	\$	762,106	83769
TOTAL GSF General Services Fund Group					83770
	\$	869,259	\$	999,254	83771
Federal Special Revenue Fund Group					83772
3S8 019-608 Federal Representation	\$	380,484	\$	315,287	83773
TOTAL FED Federal Special Revenue Fund Group					83774
	\$	380,484	\$	315,287	83775
State Special Revenue Fund Group					83776
4C7 019-601 Multi-County: County Share	\$	2,028,309	\$	2,104,367	83777
4X7 019-610 Trumbull County - County Share	\$	642,106	\$	665,860	83778
574 019-606 Legal Services Corporation	\$	16,575,000	\$	21,300,000	83779
TOTAL SSR State Special Revenue Fund Group					83780
	\$	19,245,415	\$	24,070,227	83781
TOTAL ALL BUDGET FUND GROUPS	\$	58,646,653	\$	63,462,648	83782
INDIGENT DEFENSE OFFICE					83783
The foregoing appropriation items 019-404, Trumbull County - State Share, and 019-610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.					83784
					83785
					83786
MULTI-COUNTY OFFICE					83787
The foregoing appropriation items 019-403, Multi-County: State Share, and 019-601, Multi-County: County Share, shall be					83788
					83789

used to support the Office of the Ohio Public Defender's 83790
 Multi-County Branch Office Program. 83791

TRAINING ACCOUNT 83792

The foregoing appropriation item 019-405, Training Account, 83793
 shall be used by the Ohio Public Defender to provide legal 83794
 training programs at no cost for private appointed counsel who 83795
 represent at least one indigent defendant at no cost and for state 83796
 and county public defenders and attorneys who contract with the 83797
 Ohio Public Defender to provide indigent defense services. 83798

FEDERAL REPRESENTATION 83799

The foregoing appropriation item 019-608, Federal 83800
 Representation, shall be used to receive reimbursements from the 83801
 federal courts when the Ohio Public Defender provides 83802
 representation in federal court cases and to support 83803
 representation in such cases. 83804

Section 209.51. DHS DEPARTMENT OF PUBLIC SAFETY 83805

General Revenue Fund 83806

GRF 763-403 Operating Expenses - \$ 4,214,697 \$ 4,214,697 83807
 EMA

GRF 763-507 Individual and \$ 650,000 \$ 650,000 83808
 Households Program -
 State

GRF 768-424 Operating Expenses - \$ 965,899 \$ 1,276,192 83809
 CJS

GRF 769-321 Food Stamp Trafficking \$ 752,000 \$ 752,000 83810
 Enforcement Operations

TOTAL GRF General Revenue Fund \$ 6,582,596 \$ 6,892,889 83811

General Services Fund Group 83812

3AY 768-606 Federal Justice Grants \$ 11,200,000 \$ 11,500,000 83813

4P6 768-601 Justice Program \$ 100,000 \$ 100,000 83814

purposes, and one stationary fuel cell device. 83839

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 83840

The foregoing appropriation item 763-507, Individual and 83841
Households Program - State, shall be used to fund the state share 83842
of costs to provide grants to individuals and households in cases 83843
of disaster. 83844

TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE 83845
DEPARTMENT OF PUBLIC SAFETY 83846

(A) On July 1, 2005: 83847

(1) The Office of Criminal Justice Services shall cease to 83848
exist. Subject to the layoff provisions of sections 124.321 to 83849
124.328 of the Revised Code, the employees of the Office of 83850
Criminal Justice Services who were employed by that Office on June 83851
30, 2005, are transferred on that date to the Department of Public 83852
Safety. The vehicles and equipment assigned to those employees are 83853
transferred to the Department of Public Safety. 83854

(2) The assets, liabilities, other equipment not provided 83855
for, and records, irrespective of form or medium, of the Office of 83856
Criminal Justice Services are transferred to the Division of 83857
Criminal Justice Services. The Division of Criminal Justice 83858
Services is the successor to, assumes the obligations of, and 83859
otherwise constitutes the continuation of the Office of Criminal 83860
Justice Services. 83861

(3) Business commenced but not completed by the Office of 83862
Criminal Justice Services on July 1, 2005, shall be completed by 83863
the Division of Criminal Justice Services, in the same manner, and 83864
with the same effect, as if completed by the Office of Criminal 83865
Justice Services. No validation, cure, right, privilege, remedy, 83866
obligation, or liability is lost or impaired by reason of the 83867
transfer required by this section but shall be administered by the 83868

Division of Criminal Justice Services. 83869

(4) The rules, orders, and determinations pertaining to the 83870
Office of Criminal Justice Services continue in effect as rules, 83871
orders, and determinations of the Division of Criminal Justice 83872
Services until modified or rescinded by that Division. 83873

(5) No judicial or administrative action or proceeding 83874
pending on July 1, 2005, is affected by the transfer of functions 83875
from the Office of Criminal Justice Services to the Division of 83876
Criminal Justice Services and shall be prosecuted or defended in 83877
the name of the Executive Director or Division of Criminal Justice 83878
Services. On application to the court or other tribunal, the 83879
Executive Director or Division of Criminal Justice Services shall 83880
be substituted as a party in those actions and proceedings. 83881

(6) When the Director or Office of Criminal Justice Services 83882
is referred to in any statute, rule, contract, grant, or other 83883
document, the reference is hereby deemed to refer to the Executive 83884
Director or Division of Criminal Justice Services. 83885

(B) On and after July 1, 2005, if necessary to ensure the 83886
integrity of the numbering of the Administrative Code, the 83887
Director of the Legislative Service Commission shall renumber the 83888
rules of the Office of Criminal Justice Services to reflect their 83889
transfer to the Division of Criminal Justice Services in the 83890
Department of Public Safety. 83891

(C) On and after July 1, 2005, notwithstanding any provision 83892
of law to the contrary, the Director of Budget and Management is 83893
authorized to take the actions described in this section with 83894
respect to budget changes made necessary by administrative 83895
reorganization, program transfers, the creation of new funds, and 83896
the consolidation of funds as authorized by this act. The Director 83897
may make any transfer of cash balances between funds. At the 83898
request of the Director of Budget and Management, the 83899

administering agency head shall certify to the Director an 83900
estimate of the amount of the cash balance to be transferred to 83901
the receiving fund. The Director may transfer the estimated amount 83902
when needed to make payments. Not more than thirty days after 83903
certifying the estimated amount, the administering agency head 83904
shall certify the final amount to the Director. The Director shall 83905
transfer the difference between any amount previously transferred 83906
and the certified final amount. The Director may cancel 83907
encumbrances and re-establish encumbrances or parts of 83908
encumbrances as needed in fiscal year 2006 in the appropriate fund 83909
and appropriation item for the same purpose and to the same 83910
vendor. As determined by the Director, the appropriation authority 83911
necessary to re-establish those encumbrances in fiscal year 2006 83912
in a different fund or appropriation item within an agency or 83913
between agencies is hereby authorized. The Director shall reduce 83914
each year's appropriation balances by the amount of the 83915
encumbrances canceled in their respective funds and appropriation 83916
items. Any fiscal year 2005 unencumbered or unallocated 83917
appropriation balances may be transferred to the appropriate item 83918
to be used for the same purposes, as determined by the Director. 83919

(D) Any advisory committees appointed by the Governor to 83920
assist the Office of Criminal Justice Services pursuant to section 83921
181.53 and existing on June 30, 2005, shall continue to exist as 83922
advisory committees to the Division of Criminal Justice Services 83923
in the Department of Public Safety beginning on July 1, 2005, 83924
subject to section 121.13 of the Revised Code. 83925

TRANSFER OF FAMILY VIOLENCE PREVENTION CENTER 83926

The Family Violence Prevention Center is transferred from the 83927
Office of Criminal Justice Services to the Department of Public 83928
Safety. The Family Violence Prevention Center shall operate as 83929
part of the Division of Criminal Justice Services in the 83930
Department of Public Safety in the same manner as it operated 83931

under the Office of Criminal Justice Services.	83932
STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY SERVICES	83933
	83934
Notwithstanding section 3737.71 of the Revised Code, in fiscal year 2006, the Director of Budget and Management shall transfer \$375,000 in cash from the Department of Commerce's State Fire Marshal's Fund (Fund 546) to the Department of Public Safety's Public Safety Services Fund (Fund 5CC), which is hereby created in the state treasury, and in fiscal year 2007, the Director of Budget and Management shall transfer \$325,000 in cash from the Department of Commerce's State Fire Marshal's Fund (Fund 546) to the Department of Public Safety's Public Safety Services Fund (Fund 5CC).	83935
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Of the foregoing appropriation item 768-607, Public Safety Services, \$100,000 in fiscal year 2006 and \$200,000 in fiscal year 2007 shall be distributed by the Department of Public Safety's Division of Criminal Justice Services to the City of Warren to assist the city in providing essential public safety services to its citizens.	83945
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Of the foregoing appropriation item 768-607, Public Safety Services, \$125,000 in each fiscal year shall be distributed by the Department of Public Safety's Division of Criminal Justice Services directly to the Southern Ohio Drug Task Force.	83951
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Of the foregoing appropriation item 768-607, Public Safety Services, \$150,000 in fiscal year 2006 shall be distributed by the Department of Public Safety's Division of Criminal Justice Services to the City of Eastlake to assist the city in providing essential public safety services to its citizens.	83955
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Section 209.54. PUC PUBLIC UTILITIES COMMISSION OF OHIO	83960
General Services Fund Group	83961

5F6	870-622	Utility and Railroad Regulation	\$	31,272,222	\$	31,272,223	83962
5F6	870-624	NARUC/NRRI Subsidy	\$	167,233	\$	167,233	83963
5F6	870-625	Motor Transportation Regulation	\$	5,361,239	\$	5,361,238	83964
TOTAL GSF General Services							83965
Fund Group			\$	36,800,694	\$	36,800,694	83966
Federal Special Revenue Fund Group							83967
3V3	870-604	Commercial Vehicle Information Systems/Networks	\$	300,000	\$	300,000	83968
333	870-601	Gas Pipeline Safety	\$	597,957	\$	597,957	83969
350	870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712	83970
TOTAL FED Federal Special Revenue							83971
Fund Group			\$	7,925,669	\$	7,925,669	83972
State Special Revenue Fund Group							83973
4A3	870-614	Grade Crossing Protection Devices-State	\$	1,349,757	\$	1,349,757	83974
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621	83975
4S6	870-618	Hazardous Material Registration	\$	464,325	\$	464,325	83976
4S6	870-621	Hazardous Materials Base State Registration	\$	373,346	\$	373,346	83977
4U8	870-620	Civil Forfeitures	\$	284,986	\$	284,986	83978
559	870-605	Public Utilities Territorial Administration	\$	4,000	\$	4,000	83979
560	870-607	Special Assessment	\$	100,000	\$	100,000	83980
561	870-606	Power Siting Board	\$	337,210	\$	337,210	83981
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000	83982

661 870-612 Hazardous Materials	\$	900,000	\$	900,000	83983
Transportation					
TOTAL SSR State Special Revenue					83984
Fund Group	\$	4,041,245	\$	4,041,245	83985
Agency Fund Group					83986
4G4 870-616 Base State	\$	5,600,000	\$	5,600,000	83987
Registration Program					
TOTAL AGY Agency Fund Group	\$	5,600,000	\$	5,600,000	83988
TOTAL ALL BUDGET FUND GROUPS	\$	54,367,608	\$	54,367,608	83989
COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT					83990
The Commercial Vehicle Information Systems and Networks Fund					83991
is hereby created in the state treasury. The fund shall receive					83992
funding from the United States Department of Transportation's					83993
Commercial Vehicle Intelligent Transportation System					83994
Infrastructure Deployment Program and shall be used to deploy the					83995
Ohio Commercial Vehicle Information Systems and Networks Project					83996
and to expedite and improve the safety of motor carrier operations					83997
through electronic exchange of data by means of on-highway					83998
electronic systems.					83999
Section 209.57. PWC PUBLIC WORKS COMMISSION					84000
General Revenue Fund					84001
GRF 150-904 Conservation General	\$	13,687,300	\$	17,168,800	84002
Obligation Debt					
Service					
GRF 150-907 State Capital	\$	160,731,400	\$	172,145,100	84003
Improvements					
General Obligation					84004
Debt Service					
TOTAL GRF General Revenue Fund	\$	174,418,700	\$	189,313,900	84005
Clean Ohio Fund Group					84006

056 150-403 Clean Ohio Operating Expenses	\$	298,245	\$	311,509	84007
TOTAL 056 Clean Ohio Fund Group	\$	298,245	\$	311,509	84008
TOTAL ALL BUDGET FUND GROUPS	\$	174,716,945	\$	189,625,409	84009
CONSERVATION GENERAL OBLIGATION DEBT SERVICE					84010
The foregoing appropriation item 150-904, Conservation 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 151.09 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.					84011 84012 84013 84014 84015 84016 84017
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE					84018
The foregoing appropriation item 150-907, State Capital Improvements 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 151.08 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.					84019 84020 84021 84022 84023 84024 84025 84026
REIMBURSEMENT TO THE GENERAL REVENUE FUND					84027
(A) On or before June 1, 2007, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following:					84028 84029 84030
(1) The total amount disbursed from appropriation item 700-409, Farmland Preservation, during the 2005-2007 biennium; and					84031 84032
(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 056) that are in excess of the amount needed for other purposes as calculated by the					84033 84034 84035

Director of the Public Works Commission.				84036	
(B) If the Director of Budget and Management determines under				84037	
division (A)(2) of this section that there are excess interest				84038	
earnings, the Director of Budget and Management shall, on or				84039	
before June 1, 2007, transfer the excess interest earnings to the				84040	
General Revenue Fund in an amount equal to the total amount				84041	
disbursed under division (A)(1) of this section from the Clean				84042	
Ohio Conservation Fund.				84043	
CLEAN OHIO OPERATING EXPENSES				84044	
The foregoing appropriation item 150-403, Clean Ohio				84045	
Operating Expenses, shall be used by the Ohio Public Works				84046	
Commission in administering sections 164.20 to 164.27 of the				84047	
Revised Code.				84048	
Section 209.60. RAC STATE RACING COMMISSION				84049	
State Special Revenue Fund Group				84050	
5C4 875-607 Simulcast Horse Racing	\$	17,061,489	\$	17,063,948	84051
Purse					
562 875-601 Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378	84052
563 875-602 Standardbred	\$	3,161,675	\$	3,161,675	84053
Development Fund					
564 875-603 Quarterhorse	\$	2,000	\$	2,000	84054
Development Fund					
565 875-604 Racing Commission	\$	4,000,000	\$	4,000,000	84055
Operating					
TOTAL SSR State Special Revenue					84056
Fund Group	\$	28,867,542	\$	28,870,001	84057
Holding Account Redistribution Fund Group					84058
R21 875-605 Bond Reimbursements	\$	212,900	\$	212,900	84059
TOTAL 090 Holding Account					84060
Redistribution					

Fund Group	\$	212,900	\$	212,900	84061
TOTAL ALL BUDGET FUND GROUPS	\$	29,080,442	\$	29,082,901	84062

Section 209.63. BOR BOARD OF REGENTS 84064

General Revenue Fund					84065
GRF 235-321 Operating Expenses	\$	2,897,659	\$	2,966,351	84066
GRF 235-401 Lease Rental Payments	\$	200,619,200	\$	200,795,300	84067
GRF 235-402 Sea Grants	\$	231,925	\$	231,925	84068
GRF 235-406 Articulation and Transfer	\$	2,900,000	\$	2,900,000	84069
GRF 235-408 Midwest Higher Education Compact	\$	90,000	\$	90,000	84070
GRF 235-409 Information System	\$	1,146,510	\$	1,175,172	84071
GRF 235-414 State Grants and Scholarship Administration	\$	1,352,811	\$	1,382,881	84072
GRF 235-415 Jobs Challenge	\$	9,348,300	\$	9,348,300	84073
GRF 235-417 Ohio Learning Network	\$	3,119,496	\$	3,119,496	84074
GRF 235-418 Access Challenge	\$	73,513,302	\$	73,004,671	84075
GRF 235-420 Success Challenge	\$	52,601,934	\$	52,601,934	84076
GRF 235-428 Appalachian New Economy Partnership	\$	1,176,068	\$	1,176,068	84077
GRF 235-433 Economic Growth Challenge	\$	20,343,097	\$	23,186,194	84078
GRF 235-434 College Readiness and Access	\$	6,375,975	\$	7,655,425	84079
GRF 235-435 Teacher Improvement Initiatives	\$	2,597,506	\$	2,597,506	84080
GRF 235-451 Eminent Scholars	\$	0	\$	1,370,988	84081
GRF 235-455 EnterpriseOhio Network	\$	1,373,941	\$	1,373,941	84082
GRF 235-474 Area Health Education Centers Program Support	\$	1,571,756	\$	1,571,756	84083

GRF 235-501	State Share of Instruction	\$ 1,559,096,031	\$ 1,559,096,031	84084
GRF 235-502	Student Support Services	\$ 795,790	\$ 795,790	84085
GRF 235-503	Ohio Instructional Grants	\$ 121,151,870	\$ 92,496,969	84086
GRF 235-504	War Orphans Scholarships	\$ 4,672,321	\$ 4,672,321	84087
GRF 235-507	OhioLINK	\$ 6,887,824	\$ 6,887,824	84088
GRF 235-508	Air Force Institute of Technology	\$ 1,925,345	\$ 1,925,345	84089
GRF 235-510	Ohio Supercomputer Center	\$ 4,021,195	\$ 4,021,195	84090
GRF 235-511	Cooperative Extension Service	\$ 25,644,863	\$ 25,644,863	84091
GRF 235-513	Ohio University Voinovich Center	\$ 336,082	\$ 336,082	84092
GRF 235-515	Case Western Reserve University School of Medicine	\$ 3,011,271	\$ 3,011,271	84093
GRF 235-518	Capitol Scholarship Program	\$ 125,000	\$ 125,000	84094
GRF 235-520	Shawnee State Supplement	\$ 1,918,830	\$ 1,822,889	84095
GRF 235-521	The Ohio State University Glenn Institute	\$ 286,082	\$ 286,082	84096
GRF 235-524	Police and Fire Protection	\$ 171,959	\$ 171,959	84097
GRF 235-525	Geriatric Medicine	\$ 750,110	\$ 750,110	84098
GRF 235-527	Ohio Aerospace Institute	\$ 1,764,957	\$ 1,764,957	84099
GRF 235-530	Academic Scholarships	\$ 7,800,000	\$ 7,800,000	84100

GRF 235-531	Student Choice Grants	\$	50,853,276	\$	52,985,376	84101
GRF 235-534	Student Workforce Development Grants	\$	2,137,500	\$	2,137,500	84102
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188	84103
GRF 235-543	Ohio College of Podiatric Medicine Clinic Subsidy	\$	250,000	\$	250,000	84104
GRF 525-547	School of International Business	\$	250,000	\$	250,000	84105
GRF 235-549	Part-time Student Instructional Grants	\$	14,457,721	\$	10,534,617	84106
GRF 235-552	Capital Component	\$	19,058,863	\$	19,058,863	84107
GRF 235-553	Dayton Area Graduate Studies Institute	\$	2,806,599	\$	2,806,599	84108
GRF 235-554	Priorities in Collaborative Graduate Education	\$	2,355,548	\$	2,355,548	84109
GRF 235-555	Library Depositories	\$	1,696,458	\$	1,696,458	84110
GRF 235-556	Ohio Academic Resources Network	\$	3,727,223	\$	3,727,223	84111
GRF 235-558	Long-term Care Research	\$	211,047	\$	211,047	84112
GRF 235-560	Clinical Teaching Support	\$	45,931,099	\$	45,931,099	84113
GRF 235-561	Bowling Green State University Canadian Studies Center	\$	100,015	\$	100,015	84114
GRF 235-562	Family Practice and Primary Care Residencies	\$	6,794,158	\$	6,794,158	84115
GRF 235-563	Ohio College	\$	0	\$	58,144,139	84116

	Opportunity Grant				
GRF 235-572	The Ohio State University Clinic Support	\$	1,277,019	\$	1,277,019 84117
GRF 235-583	Urban University Program	\$	4,992,937	\$	4,992,937 84118
GRF 235-587	Rural University Projects	\$	1,147,889	\$	1,147,889 84119
GRF 235-596	Hazardous Materials Program	\$	360,435	\$	360,435 84120
GRF 235-599	National Guard Scholarship Program	\$	15,128,472	\$	16,611,063 84121
GRF 235-909	Higher Education General Obligation Debt Service	\$	137,600,300	\$	152,114,100 84122
TOTAL GRF	General Revenue Fund	\$	2,468,585,757	\$	2,517,472,869 84123
	General Services Fund Group				84124
220 235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000 84125
456 235-603	Sales and Services	\$	700,000	\$	900,000 84126
TOTAL GSF	General Services Fund Group	\$	1,100,000	\$	1,300,000 84128
	Federal Special Revenue Fund Group				84129
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000 84130
3H2 235-622	Medical Collaboration Network	\$	3,346,143	\$	3,346,143 84131
3N6 235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680 84132
3T0 235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001 84133
312 235-609	Tech Prep	\$	183,850	\$	183,850 84134

312	235-611	Gear-up Grant	\$	1,370,691	\$	1,370,691	84135
312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960	84136
312	235-615	Professional Development	\$	523,129	\$	523,129	84137
312	235-617	Improving Teacher Quality Grant	\$	2,900,000	\$	2,900,000	84138
312	235-619	Ohio Supercomputer Center	\$	6,000,000	\$	6,000,000	84139
312	235-621	Science Education Network	\$	1,686,970	\$	1,686,970	84140
312	235-631	Federal Grants	\$	250,590	\$	250,590	84141
TOTAL FED Federal Special Revenue							84142
Fund Group			\$	20,221,014	\$	20,221,014	84143
State Special Revenue Fund Group							84144
4E8	235-602	Higher Educational Facility Commission Administration	\$	55,000	\$	55,000	84145
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870	84146
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000	84147
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	84148
TOTAL SSR State Special Revenue							84149
Fund Group			\$	2,184,870	\$	2,184,870	84150
TOTAL ALL BUDGET FUND GROUPS			\$	2,492,091,641	\$	2,541,178,753	84151

Section 209.63.03. OPERATING EXPENSES 84153

Of the foregoing appropriation item 235-321, Operating 84154

Expenses, up to \$150,000 in each fiscal year shall be used in 84155
conjunction with funding provided in the Department of Education 84156
budget under appropriation item 200-427, Academic Standards, to 84157
create Ohio's Partnership for Continued Learning, in consultation 84158
with the Governor's Office. The Partnership, which replaces and 84159
broadens the former Joint Council of the Department of Education 84160
and the Board of Regents, shall advise and make recommendations to 84161
promote collaboration among relevant state entities in an effort 84162
to help local communities develop coherent and successful "P-16" 84163
learning systems. The Director of Budget and Management may 84164
transfer any unencumbered fiscal year 2006 balance to fiscal year 84165
2007 to support the activities of the Partnership. 84166

Section 209.63.06. LEASE RENTAL PAYMENTS 84167

The foregoing appropriation item 235-401, Lease Rental 84168
Payments, shall be used to meet all payments at the times they are 84169
required to be made during the period from July 1, 2005, to June 84170
30, 2007, by the Board of Regents under leases and agreements made 84171
under section 154.21 of the Revised Code, but limited to the 84172
aggregate amount of \$401,414,500. Nothing in this act shall be 84173
deemed to contravene the obligation of the state to pay, without 84174
necessity for further appropriation, from the sources pledged 84175
thereto, the bond service charges on obligations issued pursuant 84176
to section 154.21 of the Revised Code. 84177

Section 209.63.09. SEA GRANTS 84178

The foregoing appropriation item 235-402, Sea Grants, shall 84179
be disbursed to the Ohio State University and shall be used to 84180
conduct research on fish in Lake Erie. 84181

Section 209.63.12. ARTICULATION AND TRANSFER 84182

The foregoing appropriation item 235-406, Articulation and 84183

Transfer, shall be used by the Board of Regents to maintain and 84184
expand the work of the Articulation and Transfer Council to 84185
develop a system of transfer policies to ensure that students at 84186
state institutions of higher education can transfer and have 84187
coursework apply to their majors and degrees at any other state 84188
institution of higher education without unnecessary duplication or 84189
institutional barriers under sections 3333.16, 3333.161, and 84190
3333.162 of the Revised Code. 84191

Of the foregoing appropriation item 235-406, Articulation and 84192
Transfer, \$200,000 in each fiscal year shall be used to support 84193
the work of the Articulation and Transfer Council under division 84194
(B) of section 3333.162 of the Revised Code. 84195

Section 209.63.15. MIDWEST HIGHER EDUCATION COMPACT 84196

The foregoing appropriation item 235-408, Midwest Higher 84197
Education Compact, shall be distributed by the Board of Regents 84198
under section 3333.40 of the Revised Code. 84199

Section 209.63.18. INFORMATION SYSTEM 84200

The foregoing appropriation item 235-409, Information System, 84201
shall be used by the Board of Regents to operate the higher 84202
education information data system known as the Higher Education 84203
Information System. 84204

Section 209.63.21. STATE GRANTS AND SCHOLARSHIP 84205
ADMINISTRATION 84206

The foregoing appropriation item 235-414, State Grants and 84207
Scholarship Administration, shall be used by the Board of Regents 84208
to administer the following student financial aid programs: Ohio 84209
Instructional Grant, Part-time Student Instructional Grant, Ohio 84210
College Opportunity Grant, Ohio Student Choice Grant, Ohio 84211
Academic Scholarship, Ohio War Orphans' Scholarship, Nurse 84212

Education Assistance Loan Program, Student Workforce Development 84213
Grant, Regents Graduate/Professional Fellowship, Ohio Safety 84214
Officers College Memorial Fund, Capitol Scholarship Program, and 84215
any other student financial aid programs created by the General 84216
Assembly. The appropriation item also shall be used to administer 84217
the federal Leveraging Educational Assistance Partnership (LEAP) 84218
and Special Leveraging Educational Assistance Partnership (SLEAP) 84219
programs and other student financial aid programs created by 84220
Congress and to provide fiscal services for the Ohio National 84221
Guard Scholarship Program and the Physician Loan Repayment 84222
Program. 84223

Section 209.63.24. JOBS CHALLENGE 84224

Funds appropriated to the foregoing appropriation item 84225
235-415, Jobs Challenge, shall be distributed to state-assisted 84226
community and technical colleges, regional campuses of 84227
state-assisted universities, and other organizationally distinct 84228
and identifiable member campuses of the EnterpriseOhio Network in 84229
support of noncredit job-related training. In each fiscal year, 84230
\$2,770,773 shall be distributed as performance grants to 84231
EnterpriseOhio Network campuses based upon each campus's 84232
documented performance according to criteria established by the 84233
Board of Regents for increasing training and related services to 84234
businesses, industries, and public sector organizations. 84235

Of the foregoing appropriation item 235-415, Jobs Challenge, 84236
\$2,819,345 in each fiscal year shall be allocated to the Targeted 84237
Industries Training Grant Program to attract, develop, and retain 84238
business and industry strategically important to the state's 84239
economy. 84240

Also, in each fiscal year, \$3,758,182 shall be allocated to 84241
the Higher Skills Incentives Program to promote and deliver 84242
coordinated, comprehensive training to local employers and to 84243

reward EnterpriseOhio Network campuses for increasing the amount 84244
of non-credit skill upgrading services provided to Ohio employers 84245
and employees. The funds shall be distributed to campuses in 84246
proportion to each campus's share of noncredit job-related 84247
training revenues received by all campuses for the previous fiscal 84248
year. It is the intent of the General Assembly that this Higher 84249
Skills Incentives component of the Jobs Challenge Program reward 84250
campus noncredit job-related training efforts in the same manner 84251
that the Research Challenge Program rewards campuses for their 84252
ability to obtain sponsored research revenues. 84253

Section 209.63.27. OHIO LEARNING NETWORK 84254

The foregoing appropriation item 235-417, Ohio Learning 84255
Network, shall be used by the Board of Regents to support the 84256
continued implementation of the Ohio Learning Network, a statewide 84257
electronic collaborative effort designed to promote degree 84258
completion of students, workforce training of employees, and 84259
professional development through the use of advanced 84260
telecommunications and distance education initiatives. 84261

Section 209.63.30. ACCESS CHALLENGE 84262

In each fiscal year, the foregoing appropriation item 84263
235-418, Access Challenge, shall be distributed to Ohio's 84264
state-assisted access colleges and universities. For the purposes 84265
of this allocation, "access campuses" includes state-assisted 84266
community colleges, state community colleges, technical colleges, 84267
Shawnee State University, Central State University, Cleveland 84268
State University, the regional campuses of state-assisted 84269
universities, and, where they are organizationally distinct and 84270
identifiable, the community-technical colleges located at the 84271
University of Cincinnati, Youngstown State University, and the 84272
University of Akron. 84273

The purpose of Access Challenge is to reduce the student share of costs for resident undergraduates enrolled in lower division undergraduate courses at Ohio's access campuses. The long-term goal is to make the student share of costs for these students equivalent to the student share of costs for resident undergraduate students enrolled throughout Ohio's public colleges and universities. Access Challenge appropriations shall be used in both years of the biennium to sustain, as much as possible, the tuition restraint or tuition reduction that was achieved with Access Challenge allocations in prior years.

In fiscal year 2006, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2003 and 2004 all-terms subsidy-eligible General Studies FTEs. In fiscal year 2007, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2004 and 2005 all-terms subsidy-eligible General Studies FTEs.

For purposes of this calculation, Cleveland State University's enrollments shall be adjusted by the ratio of the sum of subsidy-eligible lower-division FTE student enrollments eligible for access funding to the sum of subsidy-eligible General Studies FTE student enrollments at Central State University and Shawnee State University, and for the following universities and their regional campuses: the Ohio State University, Ohio University, Kent State University, Bowling Green State University, Miami University, the University of Cincinnati, the University of Akron, and Wright State University.

Of the foregoing appropriation item 235-420, Access Challenge, \$10,172,626 in fiscal year 2006 and \$9,663,995 in fiscal year 2007 shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with

its mission of service to many first-generation college students 84306
from groups historically underrepresented in higher education and 84307
from families with limited incomes. 84308

Section 209.63.33. SUCCESS CHALLENGE 84309

The foregoing appropriation item 235-420, Success Challenge, 84310
shall be used by the Board of Regents to promote degree completion 84311
by students enrolled at a main campus of a state-assisted 84312
university. 84313

Of the foregoing appropriation item 235-420, Success 84314
Challenge, 66.67 per cent of the appropriation in each fiscal year 84315
shall be distributed to state-assisted university main campuses in 84316
proportion to each campus's share of the total statewide 84317
bachelor's degrees granted by university main campuses to 84318
"at-risk" students. In fiscal years 2006 and 2007, an "at-risk" 84319
student means any undergraduate student who was eligible to 84320
receive an Ohio need-based financial aid award during the past ten 84321
years. An eligible institution shall not receive its share of this 84322
distribution until it has submitted a plan that addresses how the 84323
subsidy will be used to better serve at-risk students and increase 84324
their likelihood of successful completion of a bachelor's degree 84325
program. The Board of Regents shall disseminate to all 84326
state-supported institutions of higher education all such plans 84327
submitted by institutions that received Success Challenge funds. 84328

Of the foregoing appropriation item 235-420, Success 84329
Challenge, 33.33 per cent of the appropriation in each fiscal year 84330
shall be distributed to university main campuses in proportion to 84331
each campus's share of the total bachelor's degrees granted by 84332
university main campuses to undergraduate students who completed 84333
their bachelor's degrees in a "timely manner" in the previous 84334
fiscal year. For purposes of this section, "timely manner" means 84335
the normal time it would take for a full-time degree-seeking 84336

undergraduate student to complete the student's degree. Generally, 84337
for such students pursuing a bachelor's degree, "timely manner" 84338
means four years. Exceptions to this general rule shall be 84339
permitted for students enrolled in programs specifically designed 84340
to be completed in a longer time period. The Board of Regents 84341
shall collect data to assess the timely completion statistics by 84342
university main campuses. 84343

Section 209.63.36. APPALACHIAN NEW ECONOMY PARTNERSHIP 84344

The foregoing appropriation item 235-428, Appalachian New 84345
Economy Partnership, shall be distributed to Ohio University to 84346
continue a multi-campus and multi-agency coordinated effort to 84347
link Appalachia to the new economy. Ohio University shall use 84348
these funds to provide leadership in the development and 84349
implementation of initiatives in the areas of entrepreneurship, 84350
management, education, and technology. 84351

Section 209.63.39. ECONOMIC GROWTH CHALLENGE 84352

The foregoing appropriation item 235-433, Economic Growth 84353
Challenge, shall be used to enhance the basic research 84354
capabilities of Ohio's public and private institutions of higher 84355
education, support improved graduate programs throughout the 84356
state, and promote the transfer of technology developed by 84357
colleges and universities to private industry to further the 84358
economic goals of the state. 84359

Of the foregoing appropriation item 235-433, Economic Growth 84360
Challenge, \$18,000,000 in each fiscal year shall be used for the 84361
Research Incentive Program to enhance the basic research 84362
capabilities of public colleges and universities and accredited 84363
Ohio institutions of higher education holding certificates of 84364
authorization issued under section 1713.02 of the Revised Code, in 84365
order to strengthen academic research for pursuing Ohio's economic 84366

development goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Incentive Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional allocation of state dollars received through the program. The institutional plans shall provide the rationale for the allocation in terms of the strategic targeting of funds for academic and state purposes, for strengthening research programs, for increasing the amount of external research funds, and shall include an evaluation process to provide results of the increased support. Institutional plans for the use of Research Incentive funding must demonstrate a significant investment in Third Frontier activities funded at the institution. For a college or university with multiple Third Frontier grants, as much as ten per cent of that institution's Research Incentive funding may be invested in Third Frontier Project-related activities. Each institutional plan for the investment of Research Incentive moneys shall report on existing, planned, or possible relationships with other state science and technology programs and funding recipients in order to further ongoing statewide science and technology collaboration objectives. The Board of Regents shall submit a biennial report of progress to the General Assembly.

In fiscal year 2006, each state-assisted doctoral degree-granting university and those accredited Ohio institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program shall initiate a comprehensive

Innovation Incentive Plan designed to enhance doctoral programs 84399
and areas of research that have the greatest potential to attract 84400
preeminent researchers and build research capacity; enhance 84401
regional or state economic growth by creating new products and 84402
services to be commercialized; and complement Ohio's Third 84403
Frontier Project. 84404

Funding for the Innovation Incentive Program shall be 84405
generated from those state-assisted universities electing to set 84406
aside a portion of their allocation of the current doctoral 84407
reserve as provided in appropriation item 235-501, State Share of 84408
Instruction, and state matching funds provided in appropriation 84409
item 235-433, Economic Growth Challenge. Additionally, those 84410
accredited Ohio institutions of higher education holding 84411
certificates of authorization under section 1713.02 of the Revised 84412
Code electing to participate in the Innovation Incentive Program 84413
shall be required to set aside an amount comparable to the 84414
state-assisted universities. The criteria for the determination of 84415
this amount shall be developed by the Board of Regents. 84416

Of the foregoing appropriation item 235-433, Economic Growth 84417
Challenge, \$2,343,097 in fiscal year 2006 and \$4,686,194 in fiscal 84418
year 2007 shall match funds set aside by the state-assisted 84419
universities for the Innovation Incentive Program. The set aside 84420
begins in fiscal year 2006 and is intended to increase 84421
incrementally over a period of ten years with the goal of setting 84422
aside a total of fifteen per cent of the doctoral reserve from 84423
appropriation item 235-501, State Share of Instruction, by 2016. 84424

The Board of Regents shall use the combined amount of each 84425
participating state-assisted university's set aside of the 84426
doctoral reserve that has been withheld, the state matching funds 84427
earmarked under appropriation item 235-433, Economic Growth 84428
Challenge, and the amount set aside by each accredited Ohio 84429
institution of higher education holding a certificate of 84430

authorization under section 1713.02 of the Revised Code electing 84431
to participate in the Innovation Incentive Program to make awards 84432
through a competitive process under the Innovation Incentive 84433
Program. Only universities electing to set aside the prescribed 84434
amount shall be eligible to compete for and receive Innovation 84435
Incentive awards. The participating universities shall use these 84436
awards to restructure their array of doctoral programs. 84437

Of the foregoing appropriation item 235-433, Economic Growth 84438
Challenge, \$500,000 in fiscal year 2007 shall be distributed for 84439
the Technology Commercialization Incentive. The purpose of the 84440
Technology Commercialization Incentive is to reward public and 84441
private colleges and universities for successful technology 84442
transfer to Ohio-based business and industry resulting in the 84443
commercialization of new products, processes, and services and the 84444
establishment of new business start-ups within the state. The 84445
Third Frontier Commission, with counsel from the Third Frontier 84446
Advisory Board, shall establish the eligibility criteria for 84447
public and private colleges and universities interested in 84448
applying for Technology Commercialization Incentive funding. To 84449
qualify for the funds, public and private colleges and 84450
universities must maintain a significant investment in their own 84451
technology-transfer and commercialization operation and 84452
capabilities, and possess a significant history of successful 84453
research partnerships with Ohio-based business and industry. 84454

Section 209.63.42. COLLEGE READINESS AND ACCESS 84455

Appropriation item 235-434, College Readiness and Access, 84456
shall be used by the Board of Regents to support programs designed 84457
to improve the academic preparation and increase the number of 84458
students that enroll and succeed in higher education such as the 84459
Ohio College Access Network, the state match for the federal 84460
Gaining Early Awareness and Readiness for Undergraduate Program, 84461

and early awareness initiatives. The appropriation item shall also 84462
be used to support innovative statewide strategies to increase 84463
student access and retention for specialized populations, and to 84464
provide for pilot projects that will contribute to improving 84465
access to higher education by specialized populations. The funds 84466
may be used for projects that improve access for nonpublic 84467
secondary students. 84468

Of the foregoing appropriation item 235-434, College 84469
Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in 84470
fiscal year 2007 shall be distributed to the Ohio Appalachian 84471
Center for Higher Education at Shawnee State University. The board 84472
of directors of the Center shall consist of the presidents of 84473
Shawnee State University, Ohio University, Belmont Technical 84474
College, Hocking College, Jefferson Community College, Zane State 84475
College, Rio Grande Community College, Southern State Community 84476
College, and Washington State Community College; the dean of one 84477
of the Salem, Tuscarawas, and East Liverpool regional campuses of 84478
Kent State University, as designated by the president of Kent 84479
State University; and a representative of the Board of Regents 84480
designated by the Chancellor. 84481

Of the foregoing appropriation item 235-434, College 84482
Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in 84483
fiscal year 2007 shall be distributed to Miami University for the 84484
Student Achievement in Research and Scholarship (STARS) Program. 84485

Of the foregoing appropriation item 235-434, College 84486
Readiness and Access, \$1,574,535 in fiscal year 2006 and 84487
\$2,753,985 in fiscal year 2007 shall be used in conjunction with 84488
funding provided in the Ohio Department of Education budget under 84489
appropriation item 200-431, School Improvement Initiatives, to 84490
support the Early College High School Pilot Program. 84491

Section 209.63.45. TEACHER IMPROVEMENT INITIATIVES 84492

Appropriation item 235-435, Teacher Improvement Initiatives, 84493
shall be used by the Board of Regents to support programs such as 84494
OSI - Discovery and the Centers of Excellence in Mathematics and 84495
Science designed to raise the quality of mathematics and science 84496
teaching in primary and secondary education. 84497

Of the foregoing appropriation item 235-435, Teacher 84498
Improvement Initiatives, \$204,049 in each fiscal year shall be 84499
distributed to the Mathematics and Science Center in Lake County. 84500

Of the foregoing appropriation item 235-435, Teacher 84501
Improvement Initiatives, \$81,619 in each fiscal year shall be 84502
distributed to the Ohio Mathematics and Science Coalition. 84503

Of the foregoing appropriation item 234-435, Teacher 84504
Improvement Initiatives, \$100,000 in each fiscal year shall be 84505
distributed to the Teacher Quality Partnerships study. 84506

Of the foregoing appropriation item 235-435, Teacher 84507
Improvement Initiatives, \$799,871 in each fiscal year shall be 84508
distributed to the Ohio Resource Center for Mathematics, Science, 84509
and Reading. The funds shall be used to support a resource center 84510
for mathematics, science, and reading to be located at a 84511
state-assisted university for the purpose of identifying best 84512
educational practices in primary and secondary schools and 84513
establishing methods for communicating them to colleges of 84514
education and school districts. The Ohio Resource Center for 84515
Mathematics, Science, and Reading shall not make available 84516
resources that are inconsistent with the K-12 science standards 84517
and policies as adopted by the State Board of Education. 84518

Section 209.63.48. EMINENT SCHOLARS 84519

The foregoing appropriation item 235-451, Eminent Scholars, 84520
shall be used by the Ohio Board of Regents to continue the Ohio 84521
Eminent Scholars Program, the purpose of which is to invest 84522

educational resources to address problems that are of vital 84523
statewide significance while fostering the growth in eminence of 84524
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 84525
shall allow Ohio universities to recruit senior faculty members 84526
from outside Ohio who are nationally and internationally 84527
recognized scholars in areas of science and technology that 84528
provide the basic research platforms on which the state's 84529
technology and commercialization efforts are built. Endowment 84530
grants of approximately \$685,494 to state colleges and 84531
universities and nonprofit Ohio institutions of higher education 84532
holding certificates of authorization issued under section 1713.02 84533
of the Revised Code to match endowment gifts from nonstate sources 84534
may be made in accordance with a plan established by the Ohio 84535
Board of Regents. Matching nonstate endowment gifts shall be equal 84536
to the state's endowment grant of approximately \$685,494. The 84537
grants shall have as their purpose attracting and sustaining in 84538
Ohio scholar-leaders of national or international prominence; each 84539
grant shall assist in accelerating state economic growth through 84540
research that provides an essential basic science platform for 84541
commercialization efforts. Such scholar-leaders shall, among their 84542
duties, share broadly the benefits and knowledge unique to their 84543
fields of scholarship to the betterment of Ohio and its people and 84544
collaborate with other state technology programs and program 84545
recipients. 84546

All new Eminent Scholar awards made by the Board of Regents 84547
shall be associated with a Wright Center of Innovation, a 84548
Partnership Award from the Biomedical Research and Technology 84549
Transfer Trust Fund, or a Wright Capital Project. 84550

Section 209.63.51. ENTERPRISEOHIO NETWORK 84551

The foregoing appropriation item 235-455, EnterpriseOhio 84552
Network, shall be allocated by the Board of Regents to continue 84553

increasing the capabilities of the EnterpriseOhio Network to meet 84554
the ongoing training needs of Ohio employers. Funds shall support 84555
multicampus collaboration, best practice dissemination, and 84556
capacity building projects. The Regents Advisory Committee for 84557
Workforce Development, in its advisory role, shall advise in the 84558
development of plans and activities. 84559

Of the foregoing appropriation item 235-455, EnterpriseOhio 84560
Network, \$165,300 in each fiscal year shall be used by the Dayton 84561
Business/Sinclair College Jobs Profiling Program. 84562

Section 209.63.54. AREA HEALTH EDUCATION CENTERS 84563

The foregoing appropriation item 235-474, Area Health 84564
Education Centers Program Support, shall be used by the Board of 84565
Regents to support the medical school regional area health 84566
education centers' educational programs for the continued support 84567
of medical and other health professions education and for support 84568
of the Area Health Education Center Program. 84569

Of the foregoing appropriation item 235-474, Area Health 84570
Education Centers Program Support, \$159,158 in each fiscal year 84571
shall be disbursed to the Ohio University College of Osteopathic 84572
Medicine to operate a mobile health care unit to serve the 84573
southeastern area of the state. 84574

Of the foregoing appropriation item 235-474, Area Health 84575
Education Centers Program Support, \$119,369 in each fiscal year 84576
shall be used to support the Ohio Valley Community Health 84577
Information Network (OVCHIN) project. 84578

Section 209.63.57. STATE SHARE OF INSTRUCTION 84579

As soon as practicable during each fiscal year of the 84580
biennium ending June 30, 2007, in accordance with instructions of 84581
the Board of Regents, each state-assisted institution of higher 84582

education shall report its actual enrollment to the Board of Regents. 84583
84584

The Board of Regents shall establish procedures required by the system of formulas set out below and for the assignment of individual institutions to categories described in the formulas. The system of formulas establishes the manner in which aggregate expenditure requirements shall be determined for each of the three components of institutional operations. In addition to other adjustments and calculations described below, the subsidy entitlement of an institution shall be determined by subtracting from the institution's aggregate expenditure requirements income to be derived from the local contributions assumed in calculating the subsidy entitlements. The local contributions for purposes of determining subsidy support shall not limit the authority of the individual boards of trustees to establish fee levels. 84585
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The General Studies and Technical models shall be adjusted by the Board of Regents so that the share of state subsidy earned by those models is not altered by changes in the overall local share. A lower-division fee differential shall be used to maintain the relationship that would have occurred between these models and the baccalaureate models had an assumed share of 37.5 per cent been funded. 84598
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In defining the number of full-time equivalent (FTE) students for state subsidy purposes, the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code. 84605
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(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 84611

(1) INSTRUCTION AND SUPPORT SERVICES 84612

MODEL FY 2006 FY 2007 84613

General Studies I	\$ 4,655	\$ 4,655	84614
General Studies II	\$ 5,135	\$ 5,135	84615
General Studies III	\$ 6,365	\$ 6,365	84616
Technical I	\$ 5,926	\$ 5,926	84617
Technical III	\$ 9,107	\$ 9,107	84618
Baccalaureate I	\$ 7,160	\$ 7,160	84619
Baccalaureate II	\$ 8,235	\$ 8,235	84620
Baccalaureate III	\$ 11,841	\$ 11,841	84621
Masters and Professional I	\$ 19,088	\$ 19,088	84622
Masters and Professional II	\$ 20,984	\$ 20,984	84623
Masters and Professional III	\$ 27,234	\$ 27,234	84624
Medical I	\$ 29,143	\$ 29,143	84625
Medical II	\$ 37,172	\$ 37,172	84626
MPD I	\$ 13,645	\$ 13,645	84627

(2) STUDENT SERVICES 84628

For this purpose, FTE counts shall be weighted to reflect 84629
differences among institutions in the numbers of students enrolled 84630
on a part-time basis. The student services subsidy per FTE shall 84631
be \$890 in each fiscal year for all models. 84632

(B) PLANT OPERATION AND MAINTENANCE (POM) 84633

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY 84634

Space undergoing renovation shall be funded at the rate 84635
allowed for storage space. 84636

In the calculation of square footage for each campus, square 84637
footage shall be weighted to reflect differences in space 84638
utilization. 84639

The space inventories for each campus shall be those 84640
determined in the fiscal year 2003 state share of instruction 84641
calculation, adjusted for changes attributable to the construction 84642
or renovation of facilities for which state appropriations were 84643
made or local commitments were made prior to January 1, 1995. 84644

Only 50 per cent of the space permanently taken out of operation in fiscal year 2006 or fiscal year 2007 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory.

The square-foot-based plant operation and maintenance subsidy for each campus shall be determined as follows:

(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:

	FY 2006	FY 2007	
Classrooms	\$5.86	\$5.86	
Laboratories	\$7.31	\$7.31	
Offices	\$5.86	\$5.86	
Audio Visual Data Processing	\$7.31	\$7.31	
Storage	\$2.59	\$2.59	
Circulation	\$7.39	\$7.39	
Other	\$5.86	\$5.86	

(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.

(c) The amounts allocated to models in division (B)(1)(b) of this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures, 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. 84676

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 84677

(a) The number of subsidy-eligible FTE students in each model 84678
shall be multiplied by the following rates for each campus for 84679
each fiscal year. 84680

	FY 2006	FY 2007	
General Studies I	\$ 512	\$ 512	84682
General Studies II	\$ 662	\$ 662	84683
General Studies III	\$1,464	\$1,464	84684
Technical I	\$ 752	\$ 752	84685
Technical III	\$1,343	\$1,343	84686
Baccalaureate I	\$ 639	\$ 639	84687
Baccalaureate II	\$1,149	\$1,149	84688
Baccalaureate III	\$1,262	\$1,262	84689
Masters and Professional I	\$1,258	\$1,258	84690
Masters and Professional II	\$2,446	\$2,446	84691
Masters and Professional III	\$3,276	\$3,276	84692
Medical I	\$1,967	\$1,967	84693
Medical II	\$3,908	\$3,908	84694
MPD I	\$1,081	\$1,081	84695

(b) The sum of the products for each campus determined in 84696
division (B)(2)(a) of this section for all models except Doctoral 84697
I and Doctoral II for each fiscal year shall be weighted by a 84698
factor to reflect sponsored research activity and job 84699
training-related public services expenditures to determine the 84700
total activity-based POM subsidy. 84701

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS 84702

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS 84703

The calculation of the core subsidy entitlement shall consist 84704
of the following components: 84705

(a) For each campus in each fiscal year, the core subsidy entitlement shall be determined by multiplying the amounts listed above in divisions (A)(1) and (2) and (B)(2) of this section less assumed local contributions, by (i) average subsidy-eligible FTEs for the two-year period ending in the prior year for all models except Doctoral I and Doctoral II; and (ii) average subsidy-eligible FTEs for the five-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) In calculating the core subsidy entitlements for Medical II models only, the Board of Regents shall use the following count of FTE students:

(i) For those medical schools whose current year enrollment, including students repeating terms, is below the base enrollment, the Medical II FTE enrollment shall equal: 65 per cent of the base enrollment plus 35 per cent of the current year enrollment including students repeating terms, where the base enrollment is:

The Ohio State University	1010	84722
University of Cincinnati	833	84723
Medical University of Ohio at Toledo	650	84724
Wright State University	433	84725
Ohio University	433	84726
Northeastern Ohio Universities College of Medicine	433	84727

(ii) For those medical schools whose current year enrollment, excluding students repeating terms, is equal to or greater than the base enrollment, the Medical II FTE enrollment shall equal the base enrollment plus the FTE for repeating students.

(iii) Students repeating terms may be no more than five per cent of current year enrollment.

(c) The Board of Regents shall compute the sum of the two calculations listed in division (C)(1)(a) of this section and use

the greater sum as the core subsidy entitlement. 84736

The POM subsidy for each campus shall equal the greater of 84737
the square-foot-based subsidy or the activity-based POM subsidy 84738
component of the core subsidy entitlement. 84739

(d) The state share of instruction provided for doctoral 84740
students shall be based on a fixed percentage of the total 84741
appropriation. In each fiscal year of the biennium not more than 84742
10.34 per cent of the total state share of instruction shall be 84743
reserved to implement the recommendations of the Graduate Funding 84744
Commission. It is the intent of the General Assembly that the 84745
doctoral reserve not exceed 10.34 per cent of the total state 84746
share of instruction to implement the recommendations of the 84747
Graduate Funding Commission. The Board of Regents may reallocate 84748
up to two per cent in each fiscal year of the reserve among the 84749
state-assisted universities on the basis of a quality review as 84750
specified in the recommendations of the Graduate Funding 84751
Commission. No such reallocation shall occur unless the Board of 84752
Regents, in consultation with representatives of state-assisted 84753
universities, determines that sufficient funds are available for 84754
this purpose. 84755

The amount so reserved shall be allocated to universities in 84756
proportion to their share of the total number of Doctoral I 84757
equivalent FTEs as calculated on an institutional basis using the 84758
greater of the two-year or five-year FTEs for the period fiscal 84759
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 84760
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 84761
adjusted to reflect the effects of doctoral review and subsequent 84762
changes in Doctoral I equivalent enrollments. For the purposes of 84763
this calculation, Doctoral I equivalent FTEs shall equal the sum 84764
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 84765

If a university participates in the Innovation Incentive 84766

Program outlined in appropriation item 235-433, Economic Growth 84767
Challenge, then the Board of Regents shall withhold 1.5 per cent 84768
in fiscal year 2006 and three per cent in fiscal year 2007 of the 84769
participating university's allocation of the doctoral reserve. 84770
This withholding is intended to increase incrementally with a goal 84771
of setting aside 15 per cent of the total doctoral reserve by 84772
fiscal year 2016. 84773

The Board of Regents shall use the combined amount of each 84774
participating state-assisted university's set aside of the 84775
doctoral reserve that has been withheld, the state matching funds 84776
earmarked under appropriation item 235-433, Economic Growth 84777
Challenge, and the amount set aside by each accredited Ohio 84778
institution of higher education holding a certificate of 84779
authorization under section 1713.02 of the Revised Code electing 84780
to participate in the Innovation Incentive Program to make awards 84781
through a competitive process under the Innovation Incentive 84782
Program. Only universities electing to set aside the prescribed 84783
amount shall be eligible to compete for and receive Innovation 84784
Incentive awards. The participating universities shall use these 84785
awards to restructure their array of doctoral programs. 84786

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS 84787

In addition to and after the other adjustment noted above, in 84788
each fiscal year, no campus shall receive a state share of 84789
instruction allocation that is less than 97 per cent of the prior 84790
year's state share of instruction amount. 84791

(3) REDUCTIONS IN EARNINGS 84792

If the total state share of instruction earnings in any 84793
fiscal year exceeds the total appropriations available for such 84794
purposes, the Board of Regents shall proportionately reduce the 84795
state share of instruction earnings for all campuses by a uniform 84796
percentage so that the system wide sum equals available 84797

appropriations.	84798
(4) CAPITAL COMPONENT DEDUCTION	84799
After all other adjustments have been made, state share of	84800
instruction earnings shall be reduced for each campus by the	84801
amount, if any, by which debt service charged in Am. H.B. No. 748	84802
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd	84803
General Assembly, Am. Sub. H.B. No. 640 of the 123rd General	84804
Assembly, and H.B. No. 675 of the 124th General Assembly, and Am.	84805
Sub. H.B. 16 of the 126th General Assembly for that campus exceeds	84806
that campus's capital component earnings. The sum of the amounts	84807
deducted shall be transferred to appropriation item 235-552,	84808
Capital Component, in each fiscal year.	84809
(D) EXCEPTIONAL CIRCUMSTANCES	84810
Adjustments may be made to the state share of instruction	84811
payments and other subsidies distributed by the Board of Regents	84812
to state-assisted colleges and universities for exceptional	84813
circumstances. No adjustments for exceptional circumstances may be	84814
made without the recommendation of the Chancellor and the approval	84815
of the Controlling Board.	84816
(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF	84817
INSTRUCTION	84818
The standard provisions of the state share of instruction	84819
calculation as described in the preceding sections of temporary	84820
law shall apply to any reductions made to appropriation item	84821
235-501, State Share of Instruction, before the Board of Regents	84822
has formally approved the final allocation of the state share of	84823
instruction funds for any fiscal year.	84824
Any reductions made to appropriation item 235-501, State	84825
Share of Instruction, after the Board of Regents has formally	84826
approved the final allocation of the state share of instruction	84827

funds for any fiscal year, shall be uniformly applied to each 84828
campus in proportion to its share of the final allocation. 84829

(F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 84830

The state share of instruction payments to the institutions 84831
shall be in substantially equal monthly amounts during the fiscal 84832
year, unless otherwise determined by the Director of Budget and 84833
Management pursuant to section 126.09 of the Revised Code. 84834
Payments during the first six months of the fiscal year shall be 84835
based upon the state share of instruction appropriation estimates 84836
made for the various institutions of higher education according to 84837
Board of Regents enrollment estimates. Payments during the last 84838
six months of the fiscal year shall be distributed after approval 84839
of the Controlling Board upon the request of the Board of Regents. 84840

(G) LAW SCHOOL SUBSIDY 84841

The state share of instruction to state-supported 84842
universities for students enrolled in law schools in fiscal year 84843
2006 and fiscal year 2007 shall be calculated by using the number 84844
of subsidy-eligible FTE law school students funded by state 84845
subsidy in fiscal year 1995 or the actual number of 84846
subsidy-eligible FTE law school students at the institution in the 84847
fiscal year, whichever is less. 84848

Section 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES 84849

Funds appropriated for instructional subsidies at colleges 84850
and universities may be used to provide such branch or other 84851
off-campus undergraduate courses of study and such master's degree 84852
courses of study as may be approved by the Board of Regents. 84853

In providing instructional and other services to students, 84854
boards of trustees of state-assisted institutions of higher 84855
education shall supplement state subsidies by income from charges 84856
to students. Each board shall establish the fees to be charged to 84857

all students, including an instructional fee for educational and 84858
associated operational support of the institution and a general 84859
fee for noninstructional services, including locally financed 84860
student services facilities used for the benefit of enrolled 84861
students. The instructional fee and the general fee shall 84862
encompass all charges for services assessed uniformly to all 84863
enrolled students. Each board may also establish special purpose 84864
fees, service charges, and fines as required; such special purpose 84865
fees and service charges shall be for services or benefits 84866
furnished individual students or specific categories of students 84867
and shall not be applied uniformly to all enrolled students. 84868
Except for the board of trustees of Miami University, in 84869
implementing the pilot tuition restructuring plan recognized in 84870
Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly 84871
and again recognized by this act, a tuition surcharge shall be 84872
paid by all students who are not residents of Ohio. 84873

The board of trustees of a state-assisted institution of 84874
higher education shall not authorize a waiver or nonpayment of 84875
instructional fees or general fees for any particular student or 84876
any class of students other than waivers specifically authorized 84877
by law or approved by the Chancellor. This prohibition is not 84878
intended to limit the authority of boards of trustees to provide 84879
for payments to students for services rendered the institution, 84880
nor to prohibit the budgeting of income for staff benefits or for 84881
student assistance in the form of payment of such instructional 84882
and general fees. This prohibition is not intended to limit the 84883
authority of the board of trustees of Miami University in 84884
providing financial assistance to students in implementing the 84885
pilot tuition restructuring plan recognized in Section 89.05 of 84886
Am. Sub. H.B. 95 of the 125th General Assembly and again 84887
recognized by this act. 84888

Except for Miami University, in implementing the pilot 84889

tuition restructuring plan recognized in Section 89.05 of Am. Sub. 84890
H.B. 95 of the 125th General Assembly and again recognized by this 84891
act, each state-assisted institution of higher education in its 84892
statement of charges to students shall separately identify the 84893
instructional fee, the general fee, the tuition charge, and the 84894
tuition surcharge. Fee charges to students for instruction shall 84895
not be considered to be a price of service but shall be considered 84896
to be an integral part of the state government financing program 84897
in support of higher educational opportunity for students. 84898

In providing the appropriations in support of instructional 84899
services at state-assisted institutions of higher education and 84900
the appropriations for other instruction it is the intent of the 84901
General Assembly that faculty members shall devote a proper and 84902
judicious part of their work week to the actual instruction of 84903
students. Total class credit hours of production per quarter per 84904
full-time faculty member is expected to meet the standards set 84905
forth in the budget data submitted by the Board of Regents. 84906

The authority of government vested by law in the boards of 84907
trustees of state-assisted institutions of higher education shall 84908
in fact be exercised by those boards. Boards of trustees may 84909
consult extensively with appropriate student and faculty groups. 84910
Administrative decisions about the utilization of available 84911
resources, about organizational structure, about disciplinary 84912
procedure, about the operation and staffing of all auxiliary 84913
facilities, and about administrative personnel shall be the 84914
exclusive prerogative of boards of trustees. Any delegation of 84915
authority by a board of trustees in other areas of responsibility 84916
shall be accompanied by appropriate standards of guidance 84917
concerning expected objectives in the exercise of such delegated 84918
authority and shall be accompanied by periodic review of the 84919
exercise of this delegated authority to the end that the public 84920
interest, in contrast to any institutional or special interest, 84921

shall be served.	84922
Section 209.63.63. STUDENT SUPPORT SERVICES	84923
The foregoing appropriation item 235-502, Student Support	84924
Services, shall be distributed by the Board of Regents to Ohio's	84925
state-assisted colleges and universities that incur	84926
disproportionate costs in the provision of support services to	84927
disabled students.	84928
Section 209.63.66. OHIO INSTRUCTIONAL GRANTS	84929
In fiscal year 2006, instructional grants for all eligible	84930
full-time students shall be made using the tables under section	84931
3333.12 of the Revised Code. In fiscal year 2007, instructional	84932
grants for all eligible full-time students who have attended a	84933
college, university, or proprietary school and have completed	84934
coursework for college credit, excluding early college high school	84935
and post-secondary enrollment option students, prior to academic	84936
year 2006-2007, shall be made using the tables under section	84937
3333.12 of the Revised Code.	84938
Of the foregoing appropriation item 235-503, Ohio	84939
Instructional Grants, an amount in each fiscal year shall be used	84940
to make the payments authorized by division (C) of section 3333.26	84941
of the Revised Code to the institutions described in that	84942
division. In addition, an amount in each fiscal year shall be used	84943
to reimburse the institutions described in division (B) of section	84944
3333.26 of the Revised Code for the cost of the waivers required	84945
by that division.	84946
The unencumbered balance of appropriation item 235-503, Ohio	84947
Instructional Grants, at the end of fiscal year 2006 shall be	84948
transferred to fiscal year 2007 for use under the same	84949
appropriation item. The amounts transferred are hereby	84950
appropriated.	84951

Section 209.63.69. WAR ORPHANS SCHOLARSHIPS 84952

The foregoing appropriation item 235-504, War Orphans 84953
Scholarships, shall be used to reimburse state-assisted 84954
institutions of higher education for waivers of instructional fees 84955
and general fees provided by them, to provide grants to 84956
institutions that have received a certificate of authorization 84957
from the Ohio Board of Regents under Chapter 1713. of the Revised 84958
Code, in accordance with the provisions of section 5910.04 of the 84959
Revised Code, and to fund additional scholarship benefits provided 84960
by section 5910.032 of the Revised Code. 84961

Section 209.63.72. OHIOLINK 84962

The foregoing appropriation item 235-507, OhioLINK, shall be 84963
used by the Board of Regents to support OhioLINK, the state's 84964
electronic library information and retrieval system, which 84965
provides access statewide to the library holdings of all of Ohio's 84966
public colleges and universities, 40 private colleges, and the 84967
State Library of Ohio. 84968

Section 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY 84969

The foregoing appropriation item 235-508, Air Force Institute 84970
of Technology, shall be used to strengthen the research and 84971
educational linkages between the Wright Patterson Air Force Base 84972
and institutions of higher education in Ohio. Of the foregoing 84973
appropriation item 235-508, Air Force Institute of Technology, 84974
\$1,233,588 in each fiscal year shall be used for research projects 84975
that connect the Air Force Research Laboratories with university 84976
partners. The institute shall provide annual reports to the Third 84977
Frontier Commission, that discuss existing, planned, or possible 84978
collaborations between programs and funding recipients related to 84979
technology, research development, commercialization, and support 84980

for Ohio's economic development. 84981

Of the foregoing appropriation item 235-508, Air Force 84982
Institute of Technology, \$691,757 in each fiscal year shall be 84983
used to match federal dollars to support technology 84984
commercialization and job creation. The Development Research 84985
Corporation shall use the funds to create or expand Ohio-based 84986
technology and commercial development collaborations in areas that 84987
are a priority in Ohio's third frontier initiative between 84988
industry, academia, and government. 84989

Section 209.63.78. OHIO SUPERCOMPUTER CENTER 84990

The foregoing appropriation item 235-510, Ohio Supercomputer 84991
Center, shall be used by the Board of Regents to support the 84992
operation of the center, located at The Ohio State University, as 84993
a statewide resource available to Ohio research universities both 84994
public and private. It is also intended that the center be made 84995
accessible to private industry as appropriate. Policies of the 84996
center shall be established by a governance committee, 84997
representative of Ohio's research universities and private 84998
industry, to be appointed by the Chancellor of the Board of 84999
Regents and established for this purpose. 85000

The Ohio Supercomputer Center shall report on expanding 85001
solutions-oriented, computational science services to industrial 85002
and other customers, including alignment programs and recipients, 85003
and develop a plan for a computational science initiative in 85004
collaboration with the Wright Centers of Innovation Program. 85005

Section 209.63.81. COOPERATIVE EXTENSION SERVICE 85006

The foregoing appropriation item 235-511, Cooperative 85007
Extension Service, shall be disbursed through the Board of Regents 85008
to The Ohio State University in monthly payments, unless otherwise 85009
determined by the Director of Budget and Management under section 85010

126.09 of the Revised Code. 85011

Of the foregoing appropriation item 235-511, Cooperative 85012
Extension Service, \$178,271 in each fiscal year shall be used for 85013
additional staffing for county agents for expanded 4-H activities. 85014
Of the foregoing appropriation item 235-511, Cooperative Extension 85015
Service, \$178,271 in each fiscal year shall be used by the 85016
Cooperative Extension Service, through the Enterprise Center for 85017
Economic Development in cooperation with other agencies, for a 85018
public-private effort to create and operate a small business 85019
economic development program to enhance the development of 85020
alternatives to the growing of tobacco, and implement, through 85021
applied research and demonstration, the production and marketing 85022
of other high-value crops and value-added products. Of the 85023
foregoing appropriation item 235-511, Cooperative Extension 85024
Service, \$55,179 in each fiscal year shall be used for farm labor 85025
mediation and education programs, \$182,515 in each fiscal year 85026
shall be used to support the Ohio State University Marion 85027
Enterprise Center, and \$772,931 in each fiscal year shall be used 85028
to support the Ohio Watersheds Initiative. 85029

Section 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER 85030

The foregoing appropriation item 235-513, Ohio University 85031
Voinovich Center, shall be used by the Board of Regents to support 85032
the operations of Ohio University's Voinovich Center. 85033

Section 209.63.88. PERFORMANCE STANDARDS FOR MEDICAL 85034
EDUCATION 85035

The Board of Regents, in consultation with the state-assisted 85036
medical colleges, shall develop performance standards for medical 85037
education. Special emphasis in the standards shall be placed on 85038
attempting to ensure that at least 50 per cent of the aggregate 85039
number of students enrolled in state-assisted medical colleges 85040

continue to enter residency as primary care physicians. Primary 85041
care physicians are general family practice physicians, general 85042
internal medicine practitioners, and general pediatric care 85043
physicians. The Board of Regents shall monitor medical school 85044
performance in relation to their plans for reaching the 50 per 85045
cent systemwide standard for primary care physicians. 85046

Section 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 85047
MEDICINE 85048

The foregoing appropriation item 235-515, Case Western 85049
Reserve University School of Medicine, shall be disbursed to Case 85050
Western Reserve University through the Board of Regents in 85051
accordance with agreements entered into under section 3333.10 of 85052
the Revised Code, provided that the state support per full-time 85053
medical student shall not exceed that provided to full-time 85054
medical students at state universities. 85055

Section 209.63.94. CAPITOL SCHOLARSHIP PROGRAM 85056

The foregoing appropriation item 235-518, Capitol Scholarship 85057
Program, shall be used by the Board of Regents to provide 85058
scholarships to undergraduates of Ohio's four-year public and 85059
private institutions of higher education participating in the 85060
Washington Center Internship Program. A scholarship of \$1,800 85061
shall be awarded to students enrolled in an institution operating 85062
on a quarter system, and a scholarship of \$2,300 shall be awarded 85063
to students enrolled in an institution operating on a semester 85064
system. The number of scholarships awarded shall be limited by the 85065
amounts appropriated in fiscal years 2006 and 2007. The Washington 85066
Center shall match the scholarships awarded to students as 85067
follows: \$1,200 for students enrolled in an institution operating 85068
on a quarter system, and \$1,700 for students enrolled in an 85069
institution operating on a semester system. 85070

Section 209.63.96. SHAWNEE STATE SUPPLEMENT 85071

The foregoing appropriation item 235-520, Shawnee State 85072
Supplement, shall be used by Shawnee State University as detailed 85073
by both of the following: 85074

(A) To allow Shawnee State University to keep its 85075
undergraduate fees below the statewide average, consistent with 85076
its mission of service to an economically depressed Appalachian 85077
region; 85078

(B) To allow Shawnee State University to employ new faculty 85079
to develop and teach in new degree programs that meet the needs of 85080
Appalachians. 85081

Section 209.63.99. OSU GLENN INSTITUTE 85082

The foregoing appropriation item 235-521, The Ohio State 85083
University Glenn Institute, shall be used by the Board of Regents 85084
to support the operations of the Ohio State University's Glenn 85085
Institute. 85086

Section 209.64.03. POLICE AND FIRE PROTECTION 85087

The foregoing appropriation item 235-524, Police and Fire 85088
Protection, shall be used for police and fire services in the 85089
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 85090
Portsmouth, Xenia Township (Greene County), Rootstown Township, 85091
and the City of Nelsonville that may be used to assist these local 85092
governments in providing police and fire protection for the 85093
central campus of the state-affiliated university located therein. 85094
Each participating municipality and township shall receive at 85095
least \$5,000 in each fiscal year. Funds shall be distributed 85096
according to the method employed by the Board of Regents in the 85097
previous biennium. 85098

Section 209.64.06. GERIATRIC MEDICINE	85099
The Board of Regents shall develop plans consistent with	85100
existing criteria and guidelines as may be required for the	85101
distribution of appropriation item 235-525, Geriatric Medicine.	85102
Section 209.64.09. OHIO AEROSPACE INSTITUTE	85103
The foregoing appropriation item 235-527, Ohio Aerospace	85104
Institute, shall be distributed by the Board of Regents under	85105
section 3333.042 of the Revised Code.	85106
The Board of Regents, in consultation with the Third Frontier	85107
Commission, shall develop a plan for providing for appropriate,	85108
value-added participation of the Ohio Aerospace Institute in Third	85109
Frontier Project proposals and grants.	85110
Section 209.64.12. ACADEMIC SCHOLARSHIPS	85111
The foregoing appropriation item 235-530, Academic	85112
Scholarships, shall be used to provide academic scholarships to	85113
students under section 3333.22 of the Revised Code.	85114
Section 209.64.15. STUDENT CHOICE GRANTS	85115
The foregoing appropriation item 235-531, Student Choice	85116
Grants, shall be used to support the Student Choice Grant Program	85117
created by section 3333.27 of the Revised Code. The unencumbered	85118
balance of appropriation item 235-531, Student Choice Grants, at	85119
the end of fiscal year 2006 shall be transferred to fiscal year	85120
2007 for use under the same appropriation item to maintain grant	85121
award amounts in fiscal year 2007 equal to the awards provided in	85122
fiscal year 2006. The amounts transferred are hereby appropriated.	85123
Section 209.64.18. STUDENT WORKFORCE DEVELOPMENT GRANTS	85124
The foregoing appropriation item 235-534, Student Workforce	85125

Development Grants, shall be used to support the Student Workforce 85126
Development Grant Program. The Board of Regents shall distribute 85127
grants to each eligible student in an academic year. The size of 85128
each grant award shall be determined by the Board of Regents based 85129
on the amount of funds available for the program. The unencumbered 85130
balance of appropriation item 235-534, Student Workforce 85131
Development Grants, at the end of fiscal year 2006 shall be 85132
transferred to fiscal year 2007 for use under the same 85133
appropriation item to maintain grant award amounts in fiscal year 85134
2007 equal to the awards provided in fiscal year 2006. The amounts 85135
transferred are hereby appropriated. 85136

Section 209.64.21. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 85137
CENTER 85138

The foregoing appropriation item 235-535, Ohio Agricultural 85139
Research and Development Center, shall be disbursed through the 85140
Board of Regents to The Ohio State University in monthly payments, 85141
unless otherwise determined by the Director of Budget and 85142
Management under section 126.09 of the Revised Code. The Ohio 85143
Agricultural Research and Development Center shall not be required 85144
to remit payment to The Ohio State University during the biennium 85145
ending June 30, 2007, for cost reallocation assessments. The cost 85146
reallocation assessments include, but are not limited to, any 85147
assessment on state appropriations to the Center. 85148

The Ohio Agricultural Research and Development Center, an 85149
entity of the College of Food, Agricultural, and Environmental 85150
Sciences of The Ohio State University, shall further its mission 85151
of enhancing Ohio's economic development and job creation by 85152
continuing to internally allocate on a competitive basis 85153
appropriated funding of programs based on demonstrated 85154
performance. Academic units, faculty, and faculty-driven programs 85155
shall be evaluated and rewarded consistent with agreed-upon 85156

performance expectations as called for in the College's
Expectations and Criteria for Performance Assessment. 85157
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Of the foregoing appropriation item 235-535, Ohio
Agricultural Research and Development Center, \$458,410 in each
fiscal year shall be used to purchase equipment. 85159
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Of the foregoing appropriation item 235-535, Ohio
Agricultural Research and Development Center, \$806,463 in each
fiscal year shall be distributed to the Piketon Agricultural
Research and Extension Center. 85162
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Of the foregoing appropriation item 235-535, Ohio
Agricultural Research and Development Center, \$212,227 in each
fiscal year shall be distributed to the
Raspberry/Strawberry-Ellagic Acid Research program at The Ohio
State University Medical College in cooperation with The Ohio
State University College of Agriculture. 85166
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Of the foregoing appropriation item 235-535, Ohio
Agricultural Research and Development Center, \$42,445 in each
fiscal year shall be used to support the Ohio Berry Administrator. 85172
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Of the foregoing appropriation item 235-535, Ohio
Agricultural Research and Development Center, \$84,890 in each
fiscal year shall be used for the development of agricultural
crops and products not currently in widespread production in Ohio,
in order to increase the income and viability of family farmers. 85175
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Of the foregoing appropriation item 235-535, Ohio
Agricultural Research and Development Center, \$125,000 in each
fiscal year shall be distributed to Wilmington College for the
commercialization of agricultural products. 85180
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Section 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS 85184

The foregoing appropriation item 235-549, Part-time Student
Instructional Grants, shall be used to support a grant program for 85185
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part-time undergraduate students who are Ohio residents and who
were enrolled in degree granting programs prior to academic year
2006-2007.

Eligibility for participation in the program shall include
degree granting educational institutions that hold a certificate
of registration from the State Board of Career Colleges and
Schools, and nonprofit institutions that have a certificate of
authorization issued under Chapter 1713. of the Revised Code, as
well as state-assisted colleges and universities. Grants shall be
given to students on the basis of need, as determined by the
college, which, in making these determinations, shall give special
consideration to single-parent heads-of-household and displaced
homemakers who enroll in an educational degree program that
prepares the individual for a career. In determining need, the
college also shall consider the availability of educational
assistance from a student's employer. It is the intent of the
General Assembly that these grants not supplant such assistance.

Section 209.64.27. CAPITAL COMPONENT

The foregoing appropriation item 235-552, Capital Component,
shall be used by the Board of Regents to implement the capital
funding policy for state-assisted colleges and universities
established in Am. H.B. No. 748 of the 121st General Assembly.
Appropriations from this item shall be distributed to all campuses
for which the estimated campus debt service attributable to new
qualifying capital projects is less than the campus's
formula-determined capital component allocation. Campus
allocations shall be determined by subtracting the estimated
campus debt service attributable to new qualifying capital
projects from the campus's formula-determined capital component
allocation. Moneys distributed from this appropriation item shall
be restricted to capital-related purposes.

Any campus for which the estimated campus debt service 85218
attributable to qualifying capital projects is greater than the 85219
campus's formula-determined capital component allocation shall 85220
have the difference subtracted from its State Share of Instruction 85221
allocation in each fiscal year. The sum of all such amounts shall 85222
be transferred from appropriation item 235-501, State Share of 85223
Instruction, to appropriation item 235-552, Capital Component. 85224

Section 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE 85225

The foregoing appropriation item 235-553, Dayton Area 85226
Graduate Studies Institute, shall be used by the Board of Regents 85227
to support the Dayton Area Graduate Studies Institute, an 85228
engineering graduate consortium of three universities in the 85229
Dayton area: Wright State University, the University of Dayton, 85230
and the Air Force Institute of Technology, with the participation 85231
of the University of Cincinnati and The Ohio State University. 85232

Of the foregoing appropriation item 235-553, Dayton Area 85233
Graduate Studies Institute, \$350,000 in each fiscal year shall be 85234
used by the Development Research Corporation to support 85235
collaborative research and technology commercialization 85236
initiatives in Ohio. 85237

Section 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE 85238
EDUCATION 85239

The foregoing appropriation item 235-554, Priorities in 85240
Collaborative Graduate Education, shall be used by the Board of 85241
Regents to support improvements in graduate programs at 85242
state-assisted universities that the Board of Regents identifies 85243
as vital to the state's economic strategy. Up to \$169,782 in each 85244
fiscal year shall be used to support collaborative efforts in 85245
graduate education in this program area. The collaborative program 85246
shall be coordinated by the Board of Regents. 85247

Section 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 85248

The foregoing appropriation item 235-556, Ohio Academic 85249
Resources Network, shall be used to support the operations of the 85250
Ohio Academic Resources Network, which shall include support for 85251
Ohio's state-assisted colleges and universities in maintaining and 85252
enhancing network connections. The network shall give priority to 85253
supporting the Third Frontier Network and allocating bandwidth to 85254
programs directly supporting Ohio's economic development. 85255

Section 209.64.39. LONG-TERM CARE RESEARCH 85256

The foregoing appropriation item 235-558, Long-term Care 85257
Research, shall be disbursed to Miami University for long-term 85258
care research. 85259

Section 209.64.42. CLINICAL TEACHING SUPPORT 85260

The foregoing appropriation item 235-560, Clinical Teaching 85261
Support, shall be used to support clinical teaching at Ohio's 85262
state-assisted colleges of medicine. Of this amount, The Ohio 85263
State University shall receive \$13,565,885 in each fiscal year; 85264
University of Cincinnati shall receive \$11,157,756 in each fiscal 85265
year; Medical University of Ohio at Toledo shall receive 85266
\$8,696,866 in each fiscal year; Wright State University shall 85267
receive \$4,225,107 in each fiscal year and \$124,644 of this amount 85268
in each fiscal year shall be for the use of Wright State 85269
University's Ellis Institute for Clinical Teaching Studies to 85270
operate the clinical facility to serve the Greater Dayton Area; 85271
Ohio University shall receive \$4,084,540 in each fiscal year; and 85272
Northeastern Ohio Universities College of Medicine shall receive 85273
\$4,200,945 in each fiscal year. These funds shall be distributed 85274
through the Board of Regents. 85275

The Board of Regents, in consultation with the higher 85276

education funding commission and representatives of the 85277
state-assisted colleges of medicine, shall study and propose 85278
recommendations for a formula to allocate Clinical Teaching 85279
Support appropriations. The consultation shall consider factors 85280
that reward medical schools for serving Ohio's health care needs 85281
in an equitable and efficient manner. Recommendations shall be 85282
submitted to the Office of Budget and Management and the General 85283
Assembly for consideration by November 15, 2006. A new method, 85284
approved by the Office of Budget and Management and the General 85285
Assembly, shall be implemented in fiscal years 2008 and 2009 for 85286
distributing funds in appropriation item 235-560, Clinical 85287
Teaching Support. 85288

Section 209.64.45. BOWLING GREEN STATE UNIVERSITY CANADIAN 85289
STUDIES CENTER 85290

The foregoing appropriation item 235-561, Bowling Green State 85291
University Canadian Studies Center, shall be used by the Canadian 85292
Studies Center at Bowling Green State University to study 85293
opportunities for Ohio and Ohio businesses to benefit from the 85294
Free Trade Agreement between the United States and Canada. 85295

Section 209.64.48. FAMILY PRACTICE AND PRIMARY CARE 85296
RESIDENCIES 85297

The Board of Regents shall develop plans consistent with 85298
existing criteria and guidelines as may be required for the 85299
distribution of appropriation item 235-562, Family Practice and 85300
Primary Care Residencies. 85301

Of the foregoing appropriation item 235-562, Family Practice 85302
and Primary Care Residencies, \$4,548,470 in each fiscal year shall 85303
be distributed to Family Practice programs. 85304

Of the foregoing appropriation item 235-562, Family Practice 85305
and Primary Care Residencies, \$2,245,688 in each fiscal year shall 85306

be distributed to Primary Care Residencies, based on whether or
not the institution has submitted and gained approval for a
primary care residency plan. If the institution does not have an
approved plan, it shall receive five per cent less funding per
student than it would have received from its annual allocation.
The remaining funding shall be distributed among those
institutions that meet or exceed their targets.

Section 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT PHASE-IN 85314

The foregoing appropriation item 235-563, Ohio College
Opportunity Grant, shall be used by the Board of Regents to begin
to award needs-based financial aid to students based on the United
States Department of Education's method of determining financial
need. Beginning in fiscal year 2007, students who enrolled in a
public, private, or proprietary post-secondary institution of
higher education for the first time in academic year 2006-2007,
excluding early college high school and post-secondary enrollment
option participants, shall be eligible to receive aid based on
their expected family contributions as calculated by the United
State Department of Education, according to section 3333.122 of
the Revised Code.

Section 209.64.54. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 85327

The foregoing appropriation item 235-572, The Ohio State
University Clinic Support, shall be distributed through the Board
of Regents to The Ohio State University for support of dental and
veterinary medicine clinics.

Section 209.64.57. URBAN UNIVERSITY PROGRAM 85332

Universities receiving funds from the foregoing appropriation
item 235-583, Urban University Program, 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 85336
matched on a one-to-one basis with equivalent resources. Overhead 85337
support may not be used to meet this requirement. Where Urban 85338
University Program funds are being used to support an ongoing 85339
university unit, matching funds shall come from continuing rather 85340
than one-time sources. At each participating state-assisted 85341
institution of higher education, matching funds shall be within 85342
the substantial control of the individual designated by the 85343
institution's president as the Urban University Program 85344
representative. 85345

Of the foregoing appropriation item 235-583, Urban University 85346
Program, \$117,215 in each fiscal year shall be used to support the 85347
Center for the Interdisciplinary Study of Education and the Urban 85348
Child at Cleveland State University. These funds shall be 85349
distributed according to rules adopted by the Board of Regents and 85350
shall be used by the center for interdisciplinary activities 85351
targeted toward increasing the chance of lifetime success of the 85352
urban child, including interventions beginning with the prenatal 85353
period. The primary purpose of the center is to study issues in 85354
urban education and to systematically map directions for new 85355
approaches and new solutions by bringing together a cadre of 85356
researchers, scholars, and professionals representing the social, 85357
behavioral, education, and health disciplines. 85358

Of the foregoing appropriation item 235-583, Urban University 85359
Program, \$1,433,037 in each fiscal year shall be distributed by 85360
the Board of Regents to Cleveland State University in support of 85361
the Maxine Goodman Levin College of Urban Affairs. 85362

Of the foregoing appropriation item 235-583, Urban University 85363
Program, \$1,433,037 in each fiscal year shall be distributed to 85364
the Northeast Ohio Research Consortium, the Urban Linkages 85365
Program, and the Urban Research Technical Assistance Grant 85366
Program. The distribution among the three programs shall be 85367

determined by the chair of the Urban University Program. 85368

Of the foregoing appropriation item 235-583, Urban University 85369
Program, \$247,453 in each fiscal year shall be used to support a 85370
public communication outreach program (WCPN). The primary purpose 85371
of the program shall be to develop a relationship between 85372
Cleveland State University and nonprofit communications entities. 85373

Of the foregoing appropriation item 235-583, Urban University 85374
Program, \$169,310 in each fiscal year shall be used to support the 85375
Kent State University Learning and Technology Project. This 85376
project is a kindergarten through university collaboration between 85377
schools surrounding Kent State University's eight campuses in 85378
northeast Ohio and corporate partners who will assist in 85379
development and delivery. 85380

The Kent State University Project shall provide a faculty 85381
member who has a full-time role in the development of 85382
collaborative activities and teacher instructional programming 85383
between Kent State University and the K-12th grade schools that 85384
surround its eight campuses; appropriate student support staff to 85385
facilitate these programs and joint activities; and hardware and 85386
software to schools that will make possible the delivery of 85387
instruction to pre-service and in-service teachers, and their 85388
students, in their own classrooms or school buildings. This shall 85389
involve the delivery of low-bandwidth streaming video and 85390
web-based technologies in a distributed instructional model. 85391

Of the foregoing appropriation item 235-583, Urban University 85392
Program, \$65,119 in each fiscal year shall be used to support the 85393
Ameritech Classroom/Center for Research at Kent State University. 85394

Of the foregoing appropriation item 235-583, Urban University 85395
Program, \$723,547 in each fiscal year shall be used to support the 85396
Polymer Distance Learning Project at the University of Akron. 85397

Of the foregoing appropriation item 235-583, Urban University 85398

Program, \$32,560 in each fiscal year shall be distributed to the 85399
Kent State University/Cleveland Design Center program. 85400

Of the foregoing appropriation item 235-583, Urban University 85401
Program, \$180,886 in each fiscal year shall be used to support the 85402
Bliss Institute of Applied Politics at the University of Akron. 85403

Of the foregoing appropriation item 235-583, Urban University 85404
Program, \$10,851 in each fiscal year shall be used for the 85405
Advancing-Up Program at the University of Akron. 85406

Of the foregoing appropriation item 235-583, Urban University 85407
Program, \$139,777 in each fiscal year shall be used to support the 85408
Strategic Economic Research Collaborative at the University of 85409
Toledo Urban Affairs Center. 85410

Of the foregoing appropriation item 235-583, Urban University 85411
Program, \$139,777 in each fiscal year shall be used to support the 85412
Institute for Collaborative Research and Public Humanities at The 85413
Ohio State University. 85414

Of the foregoing appropriation item 235-583, Urban University 85415
Program, \$300,368 in each fiscal year shall be used to support the 85416
Medina County University Center. 85417

Section 209.64.60. RURAL UNIVERSITY PROJECTS 85418

Of the foregoing appropriation item 235-587, Rural University 85419
Projects, Bowling Green State University shall receive \$263,783 in 85420
each fiscal year, Miami University shall receive \$245,320 in each 85421
fiscal year, and Ohio University shall receive \$575,015 in each 85422
fiscal year. These funds shall be used to support the Institute 85423
for Local Government Administration and Rural Development at Ohio 85424
University, the Center for Public Management and Regional Affairs 85425
at Miami University, and the Center for Policy Analysis and Public 85426
Service at Bowling Green State University. 85427

A small portion of the funds provided to Ohio University 85428

shall also be used for the Institute for Local Government 85429
Administration and Rural Development State and Rural Policy 85430
Partnership with the Governor's Office of Appalachia and the 85431
Appalachian delegation of the General Assembly. 85432

Of the foregoing appropriation item 235-587, Rural University 85433
Projects, \$15,942 in each fiscal year shall be used to support the 85434
Washington State Community College day care center. 85435

Of the foregoing appropriation item 235-587, Rural University 85436
Projects, \$47,829 in each fiscal year shall be used to support the 85437
COAD/ILGARD/GOA Appalachian Leadership Initiative. 85438

Section 209.64.63. HAZARDOUS MATERIALS PROGRAM 85439

The foregoing appropriation item 235-596, Hazardous Materials 85440
Program, shall be disbursed to Cleveland State University for the 85441
operation of a program to certify firefighters for the handling of 85442
hazardous materials. Training shall be available to all Ohio 85443
firefighters. 85444

Of the foregoing appropriation item 235-596, Hazardous 85445
Materials Program, \$177,337 in each fiscal year shall be used to 85446
support the Center for the Interdisciplinary Study of Education 85447
and Leadership in Public Service at Cleveland State University. 85448
These funds shall be distributed by the Board of Regents and shall 85449
be used by the center targeted toward increasing the role of 85450
special populations in public service and not-for-profit 85451
organizations. The primary purpose of the center is to study 85452
issues in public service and to guide strategies for attracting 85453
new communities into public service occupations by bringing 85454
together a cadre of researchers, scholars, and professionals 85455
representing the public administration, social behavioral, and 85456
education disciplines. 85457

Section 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM 85458

The Board of Regents shall disburse funds from appropriation 85459
item 235-599, National Guard Scholarship Program, at the direction 85460
of the Adjutant General. Upon the request of the Adjutant General, 85461
the Board of Regents shall seek Controlling Board approval to 85462
establish appropriations in item 235-623, National Guard 85463
Scholarship Reserve Fund. The Board of Regents shall disburse 85464
funds from appropriation item 235-623, National Guard Scholarship 85465
Reserve Fund, at the direction of the Adjutant General. 85466

***Section 209.64.69. PLEDGE OF FEES** 85467

Any new pledge of fees, or new agreement for adjustment of 85468
fees, made in the biennium ending June 30, 2007, to secure bonds 85469
or notes of a state-assisted institution of higher education for a 85470
project for which bonds or notes were not outstanding on the 85471
effective date of this section shall be effective only after 85472
approval by the Board of Regents, unless approved in a previous 85473
biennium. 85474

**Section 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT 85475
SERVICE** 85476

The foregoing appropriation item 235-909, Higher Education 85477
General Obligation Debt Service, shall be used to pay all debt 85478
service and related financing costs at the times they are required 85479
to be made under sections 151.01 and 151.04 of the Revised Code 85480
during the period from July 1, 2005, to June 30, 2007. The Office 85481
of the Sinking Fund or the Director of Budget and Management shall 85482
effectuate the required payments by intrastate transfer voucher. 85483

Section 209.64.75. SALES AND SERVICES 85484

The Board of Regents is authorized to charge and accept 85485
payment for the provision of goods and services. Such charges 85486
shall be reasonably related to the cost of producing the goods and 85487

services. No charges may be levied for goods or services that are
produced as part of the routine responsibilities or duties of the
Board. All revenues received by the Board of Regents shall be
deposited into Fund 456, and may be used by the Board of Regents
to pay for the costs of producing the goods and services.

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Section 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY
COMMISSION SUPPORT

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The foregoing appropriation item 235-602, Higher Educational
Facility Commission Administration, shall be used by the Board of
Regents for operating expenses related to the Board of Regents'
support of the activities of the Ohio Higher Educational Facility
Commission. Upon the request of the chancellor, the Director of
Budget and Management shall transfer up to \$55,000 cash from Fund
461 to Fund 4E8 in each fiscal year of the biennium.

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Section 209.64.78. PHYSICIAN LOAN REPAYMENT

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The foregoing appropriation item 235-604, Physician Loan
Repayment, shall be used in accordance with sections 3702.71 to
3702.81 of the Revised Code.

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Section 209.64.81. NURSING LOAN PROGRAM

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The foregoing appropriation item 235-606, Nursing Loan
Program, shall be used to administer the nurse education
assistance program. Up to \$159,600 in fiscal year 2006 and
\$167,580 in fiscal year 2007 may be used for operating expenses
associated with the program. Any additional funds needed for the
administration of the program are subject to Controlling Board
approval.

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Section 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION

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The Board of Regents shall work in close collaboration with

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the Department of Development, 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; 235-451, Eminent
Scholars; 235-508, Air Force Institute of Technology; 235-510,
Ohio Supercomputer Center; 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 (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; and (3) 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.

If requested by the Third Frontier Commission, Alignment
Programs managers shall report to the Commission or the Third
Frontier Advisory Board, as directed by the Commission, on the
contributions of their programs to achieving the objectives stated

in the preceding paragraph of this section.

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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 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 expenditure of state funds. All programs
listed above shall provide annual reports to the Third Frontier
Commission discussing existing, planned, or possible
collaborations between programs and recipients of grant funding
related to technology, development, commercialization, and
supporting Ohio's economic development. The annual review by the
Third Frontier Commission shall be a comprehensive review of the
entire state science and technology program portfolio rather than
a review of individual programs.

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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
the 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.

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To ensure that the state receives the maximum benefit from 85580
its investment in the Third Frontier Project and the Third 85581
Frontier Network, organizations receiving Third Frontier awards 85582
and Alignment Programs awards shall, as appropriate, be expected 85583
to have a connection to the Third Frontier Network that enables 85584
them and their collaborators to achieve award objectives through 85585
the Third Frontier Network. 85586

Section 209.64.87. REPAYMENT OF RESEARCH FACILITY INVESTMENT 85587
FUND MONEYS 85588

Notwithstanding any provision of law to the contrary, all 85589
repayments of Research Facility Investment Fund loans shall be 85590
made to the Bond Service Trust Fund. All Research Facility 85591
Investment Fund loan repayments made prior to the effective date 85592
of this section shall be transferred by the Director of Budget and 85593
Management to the Bond Service Trust Fund within sixty days after 85594
the effective date of this section. 85595

Campuses shall make timely repayments of Research Facility 85596
Investment Fund loans, according to the schedule established by 85597
the Board of Regents. In the case of late payments, the Board of 85598
Regents may deduct from an institution's periodic subsidy 85599
distribution an amount equal to the amount of the overdue payment 85600
for that institution, transfer such amount to the Bond Service 85601
Trust Fund, and credit the appropriate institution for the 85602
repayment. 85603

Section 209.64.90. VETERANS' PREFERENCES 85604

The Board of Regents shall work with the Governor's Office of 85605
Veterans' Affairs to develop specific veterans' preference 85606
guidelines for higher education institutions. These guidelines 85607
shall ensure that the institutions' hiring practices are in 85608
accordance with the intent of Ohio's veterans' preference laws. 85609

Section 209.64.93. STATE NEED-BASED FINANCIAL AID 85610
RECONCILIATION 85611

By the first day of August in each fiscal year, or as soon 85612
thereafter as possible, the Ohio Board of Regents shall certify to 85613
the Director of Budget and Management the amount necessary to pay 85614
any outstanding prior year obligations to higher education 85615
institutions for the state's need-based financial aid programs. 85616
The amounts certified are hereby appropriated to appropriation 85617
item 235-618, State Need-based Financial Aid Reconciliation, from 85618
revenues received in the State Need-based Financial Aid 85619
Reconciliation Fund (Fund 5Y5). 85620

Section 209.64.96. STUDY ON DISTRIBUTING STATE SHARE OF 85621
INSTRUCTION FUNDS BASED ON CAMPUS ADMINISTRATIVE EFFICIENCY 85622

The Board of Regents, in consultation with representatives of 85623
the higher education community, shall conduct a study on the 85624
feasibility of distributing a portion of GRF appropriation item 85625
235-501, State Share of Instruction, based on campus 85626
administrative efficiency. The Board of Regents shall consider 85627
what statistic or statistics would be appropriate to measure 85628
administrative efficiency and also shall consider what an adequate 85629
level of administrative support should be. The Board of Regents 85630
shall submit the results of the study to the General Assembly not 85631
later than September 15, 2006. 85632

Section 209.64.99. STUDY ON DISTRIBUTING STATE SHARE OF 85633
INSTRUCTION FUNDS BASED ON THE NUMBER OF DEGREES AND CERTIFICATES 85634
AWARDED 85635

The Board of Regents, in consultation with representatives 85636
from the higher education community, shall conduct a study on the 85637
feasibility of distributing a portion of GRF appropriation item 85638

235-501, State Share of Instruction, based on the number of 85639
Ohioans who are awarded certificates or associate's, 85640
baccalaureate, master's, or doctoral degrees. The study shall 85641
examine whether it is feasible to retain a portion of the State 85642
Share of Instruction distributed to the campuses until such times 85643
as the certificates or degrees are conferred, whether the existing 85644
appropriation is sufficient to fund such an initiative, and how 85645
much in additional funds might be necessary to significantly 85646
increase the number of certificates and degrees earned by Ohioans 85647
each year. The Board of Regents shall submit the results of the 85648
study to the General Assembly not later than September 15, 2006. 85649

Section 209.65.03. STUDY ON PROVIDING INCENTIVES FOR 85650
CERTIFICATE AND ASSOCIATE DEGREES 85651

The Board of Regents, in consultation with representatives 85652
from the higher education community, shall conduct a study on the 85653
feasibility of devising a performance-based grant to provide 85654
incentives to university branch campuses, community colleges, 85655
state community colleges, technical colleges, and the community 85656
and technical colleges at Youngstown State University, the 85657
University of Cincinnati, and The University of Akron to increase 85658
the number and proportion of Ohio students who receive a 85659
certificate or an associate degree. In consultation with the Ohio 85660
Association of Community Colleges, the Board of Regents shall 85661
develop a measure of certification or degree completion. The Board 85662
of Regents shall recommend a formula, using the Success Challenge 85663
formula as a model, that will reward the public two-year campuses 85664
for the academic success of their undergraduate students. The 85665
Board of Regents shall submit the results of the study to the 85666
General Assembly not later than September 15, 2006. 85667

Section 209.69. DRC DEPARTMENT OF REHABILITATION AND 85668

CORRECTION				85669
General Revenue Fund				85670
GRF 501-321 Institutional	\$	857,371,490	\$ 873,888,880	85671
Operations				
GRF 501-403 Prisoner Compensation	\$	8,599,255	\$ 8,599,255	85672
GRF 501-405 Halfway House	\$	38,104,924	\$ 38,105,128	85673
GRF 501-406 Lease Rental Payments	\$	132,370,500	\$ 120,600,600	85674
GRF 501-407 Community	\$	15,383,471	\$ 15,404,522	85675
Nonresidential				
Programs				
GRF 501-408 Community Misdemeanor	\$	8,041,489	\$ 8,041,489	85676
Programs				
GRF 501-501 Community Residential	\$	55,054,445	\$ 55,054,445	85677
Programs - CBCF				
GRF 502-321 Mental Health Services	\$	64,897,564	\$ 66,055,754	85678
GRF 503-321 Parole and Community	\$	78,887,219	\$ 80,708,911	85679
Operations				
GRF 504-321 Administrative	\$	27,559,389	\$ 28,147,730	85680
Operations				
GRF 505-321 Institution Medical	\$	159,926,575	\$ 176,500,628	85681
Services				
GRF 506-321 Institution Education	\$	22,727,366	\$ 23,114,615	85682
Services				
GRF 507-321 Institution Recovery	\$	6,946,286	\$ 7,090,212	85683
Services				
TOTAL GRF General Revenue Fund	\$	1,475,869,973	\$ 1,501,312,169	85684
General Services Fund Group				85685
148 501-602 Services and	\$	95,207,653	\$ 95,207,653	85686
Agricultural				
200 501-607 Ohio Penal Industries	\$	38,000,000	\$ 38,000,000	85687
4B0 501-601 Penitentiary Sewer	\$	1,758,177	\$ 1,758,177	85688
Treatment Facility				

Services						
4D4	501-603	Prisoner Programs	\$	20,967,703	\$ 20,967,703	85689
4L4	501-604	Transitional Control	\$	1,593,794	\$ 1,593,794	85690
4S5	501-608	Education Services	\$	4,564,072	\$ 4,564,072	85691
483	501-605	Property Receipts	\$	393,491	\$ 393,491	85692
5AF	501-609	State and Non-Federal	\$	262,718	\$ 262,718	85693
Awards						
5H8	501-617	Offender Financial	\$	2,000,000	\$ 2,000,000	85694
Responsibility						
5L6	501-611	Information Technology	\$	3,741,980	\$ 3,741,980	85695
Services						
571	501-606	Training Academy	\$	75,190	\$ 75,190	85696
Receipts						
593	501-618	Laboratory Services	\$	5,799,999	\$ 5,799,999	85697
TOTAL GSF General Services Fund			\$	174,364,777	\$ 174,364,777	85698
Group						
State Special Revenue Fund Group						85699
5CL	501-616	Sex Offender	\$	100,000	\$ 75,000	85700
Supervision						
Total SSR State Special Revenue			\$	100,000	\$ 75,000	85701
Fund Group						
Federal Special Revenue Fund Group						85702
3S1	501-615	Truth-In-Sentencing	\$	26,127,427	\$ 26,127,427	85703
Grants						
323	501-619	Federal Grants	\$	12,198,353	\$ 12,198,353	85704
TOTAL FED Federal Special Revenue						85705
Fund Group			\$	38,325,780	\$ 38,325,780	85706
TOTAL ALL BUDGET FUND GROUPS			\$	1,688,660,530	\$ 1,714,077,726	85707
OHIO BUILDING AUTHORITY LEASE PAYMENTS						85708
The foregoing appropriation item 501-406, Lease Rental						85709
Payments, shall be used for payments to the Ohio Building						85710
Authority for the period July 1, 2005, to June 30, 2007, under the						85711

primary leases and agreements for those buildings made under 85712
Chapter 152. of the Revised Code but limited to the aggregate 85713
amount of \$252,971,100. This appropriation amount is the source of 85714
funds pledged for bond service charges on related obligations 85715
issued under Chapter 152. of the Revised Code. 85716

PRISONER COMPENSATION 85717

Money from the foregoing appropriation item 501-403, Prisoner 85718
Compensation, shall be transferred on a quarterly basis by 85719
intrastate transfer voucher to the Services and Agricultural Fund 85720
(Fund 148) for the purposes of paying prisoner compensation. 85721

SEX OFFENDER SUPERVISION 85722

On July 1, 2005, or as soon as practicable thereafter, the 85723
Director of Budget and Management shall transfer \$100,000 in cash 85724
from the Reparations Fund (Fund 402) to the Sex Offender 85725
Supervision Fund (Fund 5CL). On July 1, 2006, or as soon as 85726
practicable thereafter, the Director of Budget and Management 85727
shall transfer \$75,000 in cash from the Reparations Fund (Fund 85728
402) to the Sex Offender Supervision Fund (Fund 5CL). 85729

The foregoing appropriation item 501-616, Sex Offender 85730
Supervision, shall be used by the Department of Rehabilitation and 85731
Correction to pay for the costs incurred by the Adult Parole 85732
Authority in supervising sexually violent predators released from 85733
prison as required by section 2971.05 of the Revised Code. 85734

LOCATION AND TRACKING TECHNOLOGY 85735

The Director of Rehabilitation and Correction may expend from 85736
the appropriate fund or funds a total of \$3,000,000 in each of 85737
fiscal years 2006 and 2007 for the purchase, installation, and 85738
operation of radio frequency identification and tracking 85739
technology, providing real-time identification and tracking of 85740
inmates and staff in the state's adult correctional institutions. 85741

Section 209.72. RSC REHABILITATION SERVICES COMMISSION				85742
General Revenue Fund				85743
GRF 415-100	Personal Services	\$ 8,851,468	\$ 8,851,468	85744
GRF 415-402	Independent Living	\$ 12,280	\$ 12,280	85745
Council				
GRF 415-403	Mental Health Services	\$ 717,221	\$ 717,221	85746
GRF 415-404	MR/DD Services	\$ 1,260,816	\$ 1,260,816	85747
GRF 415-405	Vocational	\$ 536,912	\$ 536,912	85748
Rehabilitation/Job and Family Services				
GRF 415-406	Assistive Technology	\$ 47,531	\$ 47,531	85749
GRF 415-431	Office for People with	\$ 226,012	\$ 226,012	85750
Brain Injury				
GRF 415-506	Services for People	\$ 12,185,215	\$ 12,185,215	85751
with Disabilities				
GRF 415-508	Services for the Deaf	\$ 50,000	\$ 50,000	85752
GRF 415-509	Services for the	\$ 359,377	\$ 359,377	85753
Elderly				
GRF 415-520	Independent Living	\$ 50,000	\$ 50,000	85754
Services				
TOTAL GRF	General Revenue Fund	\$ 24,296,832	\$ 24,296,832	85755
General Services Fund Group				85756
4W5 415-606	Program Management	\$ 18,557,040	\$ 18,557,040	85757
Expenses				
467 415-609	Business Enterprise	\$ 1,632,082	\$ 1,632,082	85758
Operating Expenses				
TOTAL GSF	General Services			85759
Fund Group		\$ 20,189,122	\$ 20,189,122	85760
Federal Special Revenue Fund Group				85761
3L1 415-601	Social Security	\$ 3,743,740	\$ 3,743,740	85762
Personal Care				

		Assistance					
3L1	415-605	Social Security	\$	1,100,488	\$	1,100,488	85763
		Community Centers for the Deaf					
3L1	415-607	Social Security	\$	175,860	\$	175,860	85764
		Administration Cost					
3L1	415-608	Social Security	\$	2,246,991	\$	131,716	85765
		Special Programs/Assistance					
3L1	415-610	Social Security	\$	1,336,324	\$	1,338,324	85766
		Vocational Rehabilitation					
3L1	415-614	Social Security	\$	154,942	\$	0	85767
		Independent Living					
3L4	415-612	Federal Independent	\$	894,662	\$	686,520	85768
		Living Centers or Services					
3L4	415-615	Federal - Supported	\$	1,338,191	\$	1,338,191	85769
		Employment					
3L4	415-617	Independent	\$	1,508,885	\$	1,608,885	85770
		Living/Vocational Rehabilitation Programs					
317	415-620	Disability	\$	82,870,347	\$	87,999,369	85771
		Determination					
379	415-616	Federal - Vocational	\$	123,565,158	\$	119,998,470	85772
		Rehabilitation					
TOTAL FED		Federal Special					85773
Revenue Fund Group			\$	218,935,588	\$	218,121,563	85774
State Special Revenue Fund Group							85775
4L1	415-619	Services for	\$	4,500,000	\$	4,500,000	85776
		Rehabilitation					
468	415-618	Third Party Funding	\$	1,055,407	\$	1,105,407	85777

TOTAL SSR State Special				85778	
Revenue Fund Group	\$	5,555,407	\$	5,605,407	85779
TOTAL ALL BUDGET FUND GROUPS	\$	268,976,949	\$	268,212,924	85780
INDEPENDENT LIVING COUNCIL				85781	
The foregoing appropriation item 415-402, Independent Living				85782	
Council, shall be used to fund the operations of the State				85783	
Independent Living Council.				85784	
MENTAL HEALTH SERVICES				85785	
The foregoing appropriation item 415-403, Mental Health				85786	
Services, shall be used for the provision of vocational				85787	
rehabilitation services to mutually eligible consumers of the				85788	
Rehabilitation Services Commission and the Department of Mental				85789	
Health.				85790	
The Rehabilitation Services Commission shall provide the				85791	
Department of Mental Health a quarterly report stating the numbers				85792	
served, numbers placed in employment, average hourly wage, and				85793	
average hours worked.				85794	
MR/DD SERVICES				85795	
The foregoing appropriation item 415-404, MR/DD Services,				85796	
shall be used as state matching funds to provide vocational				85797	
rehabilitation services to mutually eligible clients between the				85798	
Rehabilitation Services Commission and the Department of Mental				85799	
Retardation and Developmental Disabilities. The Rehabilitation				85800	
Services Commission shall report to the Department of Mental				85801	
Retardation and Developmental Disabilities, as outlined in an				85802	
interagency agreement, on the number and status of mutually				85803	
eligible clients and the status of the funds and expenditures for				85804	
these clients.				85805	
VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES				85806	
The foregoing appropriation item 415-405, Vocational				85807	

Rehabilitation/Job and Family Services, shall be used as state 85808
matching funds to provide vocational rehabilitation services to 85809
mutually eligible clients between the Rehabilitation Services 85810
Commission and the Department of Job and Family Services. The 85811
Rehabilitation Services Commission shall report to the Department 85812
of Job and Family Services, as outlined in an interagency 85813
agreement, on the number and status of mutually eligible clients 85814
and the status of the funds and expenditures for these clients. 85815

ASSISTIVE TECHNOLOGY 85816

The foregoing appropriation item 415-406, Assistive 85817
Technology, shall be provided to Assistive Technology of Ohio and 85818
shall be used only to provide grants under that program. No amount 85819
of the appropriation may be used for administrative costs. 85820

OFFICE FOR PEOPLE WITH BRAIN INJURY 85821

Of the foregoing appropriation item 415-431, Office for 85822
People with Brain Injury, \$50,000 in each fiscal year shall be 85823
used for the state match for a federal grant awarded through the 85824
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 85825
in fiscal year 2006 and up to \$50,000 in fiscal year 2007 shall be 85826
provided to the Brain Injury Trust Fund. The remaining 85827
appropriation shall be used to plan and coordinate 85828
head-injury-related services provided by state agencies and other 85829
government or private entities, to assess the needs for such 85830
services, and to set priorities in this area. 85831

SERVICES FOR THE DEAF 85832

The foregoing appropriation item 415-508, Services for the 85833
Deaf, shall be used to supplement Social Security reimbursement 85834
funds used to provide grants to community centers for the deaf. 85835
These funds shall not be used in lieu of Social Security 85836
reimbursement funds. 85837

SERVICES FOR THE ELDERLY	85838
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.	85839 85840 85841 85842
INDEPENDENT LIVING SERVICES	85843
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.	85844 85845 85846 85847 85848 85849 85850
PROGRAM MANAGEMENT EXPENSES	85851
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.	85852 85853 85854 85855 85856
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	85857
The foregoing appropriation item 415-617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not limited to, high tech high schools, training, and brain injury grants.	85858 85859 85860 85861 85862
SOCIAL SECURITY REIMBURSEMENT FUNDS	85863
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	85864 85865 85866 85867

in the Social Security Reimbursement Fund (Fund 3L1), as follows: 85868

(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; 85869
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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; 85872
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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; 85876
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85878

(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. 85879
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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. 85887
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PILOT PROGRAM FOR VOCATIONAL REHABILITATION 85891

During fiscal years 2006 and 2007, the Rehabilitation Services Commission may conduct a pilot program to provide vocational rehabilitation and related services to entities, employers, or individuals that are not eligible for state- or federally-supported services through the commission. The commission shall propose fees to be collected from the entities, 85892
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employers, or individuals served by the pilot program to support 85898
the costs for vocational rehabilitation and related services 85899
provided under the pilot program. Fee revenues collected under the 85900
program shall be credited to Fund 468 (Third Party Funding). 85901
During implementation of the pilot program, the Rehabilitation 85902
Services Commission shall investigate and determine the 85903
possibility of utilizing this source of revenue to match federal 85904
funds. The Rehabilitation Services Commission shall evaluate the 85905
progress of the pilot program and issue a report of its findings 85906
to the Governor not later than December 15, 2007. The report shall 85907
include a recommendation to either continue or discontinue the 85908
pilot program in the next biennium. 85909

Section 209.75. RCB RESPIRATORY CARE BOARD 85910

General Services Fund Group 85911
4K9 872-609 Operating Expenses \$ 441,987 \$ 0 85912
TOTAL GSF General Services 85913
Fund Group \$ 441,987 \$ 0 85914
TOTAL ALL BUDGET FUND GROUPS \$ 441,987 \$ 0 85915

Section 209.78. REVENUE DISTRIBUTION FUNDS 85917

Volunteer Firefighters' Dependents Fund 85918
085 800-900 Volunteer \$ 280,000 \$ 280,000 85919
Firefighters'
Dependents Fund
TOTAL 085 Volunteer Firefighters' 85920
Dependents Fund \$ 280,000 \$ 280,000 85921
Agency Fund Group 85922
062 110-900 Resort Area Excise Tax \$ 1,000,000 \$ 1,075,000 85923
063 110-900 Permissive Tax \$ 1,627,628,631 \$ 1,706,969,960 85924
Distribution
067 110-900 School District Income \$ 185,000,000 \$ 195,000,000 85925

		Tax				
4P8	001-698	Cash Management	\$	2,500,000	\$	3,000,000 85926
		Improvement Fund				
608	001-699	Investment Earnings	\$	85,000,000	\$	85,000,000 85927
TOTAL	AGY	Agency Fund Group	\$	1,901,128,631	\$	1,991,044,960 85928
		Holding Account Redistribution				85929
R45	110-617	International Fuel Tax	\$	6,292,029	\$	0 85930
		Distribution				
TOTAL	090	Holding Account	\$	6,292,029	\$	0 85931
		Redistribution Fund				
		Revenue Distribution Fund Group				85932
049	038-900	Indigent Drivers	\$	1,865,000	\$	1,865,000 85933
		Alcohol Treatment				
050	762-900	International	\$	55,000,000	\$	55,000,000 85934
		Registration Plan				
		Distribution				
051	762-901	Auto Registration	\$	475,000,000	\$	475,000,000 85935
		Distribution				
054	110-900	Local Government	\$	90,000,000	\$	90,000,000 85936
		Property Tax				
		Replacement - Utility				
060	110-900	Gasoline Excise Tax	\$	325,000,000	\$	349,000,000 85937
		Fund				
064	110-900	Local Government	\$	83,754,100	\$	77,384,100 85938
		Revenue Assistance				
065	110-900	Library/Local	\$	444,372,980	\$	435,584,650 85939
		Government Support				
		Fund				
066	800-900	Undivided Liquor	\$	14,300,000	\$	14,300,000 85940
		Permits				
068	110-900	State and Local	\$	231,076,000	\$	235,542,000 85941
		Government Highway				
		Distribution				

069	110-900	Local Government Fund	\$	615,354,000	\$	586,855,299	85942
081	110-900	Local Government	\$	20,490,000	\$	154,290,000	85943
		Property Tax					
		Replacement-Business					
082	110-900	Horse Racing Tax	\$	130,000	\$	130,000	85944
083	700-900	Ohio Fairs Fund	\$	2,450,000	\$	2,450,000	85945
TOTAL RDF Revenue Distribution							85946
Fund Group			\$	2,358,792,080	\$	2,477,401,049	85947
TOTAL ALL BUDGET FUND GROUPS			\$	4,266,492,740	\$	4,468,726,009	85948
ADDITIONAL APPROPRIATIONS							85949
Appropriation items in this section shall be used for the							85950
purpose of administering and distributing the designated revenue							85951
distribution funds according to the Revised Code. If it is							85952
determined that additional appropriations are necessary for this							85953
purpose, such amounts are appropriated.							85954
Section 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL							85955
GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 081)							85956
Notwithstanding any provision of law to the contrary, the							85957
Director of Budget and Management shall transfer \$4,290,000 in							85958
fiscal year 2006 and \$30,090,000 in fiscal year 2007 from the							85959
General Revenue Fund to appropriation item 110-900, Local							85960
Government Property Tax Replacement - Business (Fund 081) in the							85961
Revenue Distribution Fund. The funds shall be used to reimburse							85962
local taxing units under section 5751.22 of the Revised Code.							85963
Section 209.81. SAN BOARD OF SANITARIAN REGISTRATION							85964
General Services Fund Group							85965
4K9	893-609	Operating Expenses	\$	134,279	\$	0	85966
TOTAL GSF General Services							85967
Fund Group			\$	134,279	\$	0	85968
TOTAL ALL BUDGET FUND GROUPS			\$	134,279	\$	0	85969

Section 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND				85971
General Revenue Fund				85972
GRF 226-100 Personal Services	\$	6,469,841	\$ 6,594,261	85973
GRF 226-200 Maintenance	\$	704,162	\$ 704,162	85974
GRF 226-300 Equipment	\$	113,289	\$ 113,289	85975
TOTAL GRF General Revenue Fund	\$	7,287,292	\$ 7,411,712	85976
General Services Fund Group				85977
4H8 226-602 Education Reform	\$	21,620	\$ 21,620	85978
Grants				
TOTAL GSF General Services				85979
Fund Group	\$	21,620	\$ 21,620	85980
Federal Special Revenue Fund Group				85981
3P5 226-643 Medicaid Professional	\$	180,000	\$ 210,000	85982
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,639,000	\$ 1,639,000	85983
TOTAL FED Federal Special				85984
Revenue Fund Group	\$	1,819,000	\$ 1,849,000	85985
State Special Revenue Fund Group				85986
4M5 226-601 Student Activity and	\$	217,397	\$ 217,397	85987
Work Study				
TOTAL SSR State Special Revenue				85988
Fund Group	\$	217,397	\$ 217,397	85989
TOTAL ALL BUDGET FUND GROUPS	\$	9,345,309	\$ 9,499,729	85990
Section 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF				85992
General Revenue Fund				85993
GRF 221-100 Personal Services	\$	8,401,704	\$ 8,401,704	85994
GRF 221-200 Maintenance	\$	1,032,751	\$ 1,032,751	85995
GRF 221-300 Equipment	\$	222,500	\$ 222,500	85996
TOTAL GRF General Revenue Fund	\$	9,656,955	\$ 9,656,955	85997

General Services Fund Group				85998
4M1 221-602 Education Reform	\$	27,575	\$ 27,575	85999
Grants				
TOTAL GSF General Services				86000
Fund Group	\$	27,575	\$ 27,575	86001
Federal Special Revenue Fund Group				86002
3AD 221-604 VREAL Ohio	\$	1,000,000	\$ 1,000,000	86003
3R0 221-684 Medicaid Professional	\$	35,000	\$ 35,000	86004
Services Reimbursement				86005
3Y1 221-686 Early Childhood Grant	\$	250,000	\$ 250,000	86006
311 221-625 Coordinating Unit	\$	1,062,426	\$ 1,062,426	86007
TOTAL FED Federal Special				86008
Revenue Fund Group	\$	2,347,426	\$ 2,347,426	86009
State Special Revenue Fund Group				86010
4M0 221-601 Educational Program	\$	32,688	\$ 32,688	86011
Expenses				86012
5H6 221-609 Even Start Fees &	\$	59,800	\$ 59,800	86013
Gifts				
TOTAL SSR State Special Revenue				86014
Fund Group	\$	92,488	\$ 92,488	86015
TOTAL ALL BUDGET FUND GROUPS	\$	12,124,444	\$ 12,124,444	86016
EQUIPMENT				86017
Of the foregoing appropriation item 221-300, Equipment, up to				86018
\$15,000 in fiscal year 2006 may be used by the Ohio School for the				86019
Deaf to purchase software for the documentation and tracking of				86020
students for increased accountability and data analysis for				86021
quality instruction.				86022
Section 209.90. SFC SCHOOL FACILITIES COMMISSION				86023
General Revenue Fund				86024
GRF 230-428 Lease Rental Payments	\$	31,691,700	\$ 31,603,200	86025

GRF 230-908 Common Schools General	\$	188,724,700	\$	224,911,500	86026
Obligation Debt					
Service					
TOTAL GRF General Revenue Fund	\$	220,416,400	\$	256,514,700	86027
State Special Revenue Fund Group					86028
5E3 230-644 Operating Expenses	\$	7,319,617	\$	7,691,485	86029
TOTAL SSR State Special Revenue					86030
Fund Group	\$	7,319,617	\$	7,691,485	86031
Lottery Profits Education Fund Group					86032
020 230-620 Career-Tech School	\$	2,000,000	\$	2,000,000	86033
Building Assistance					
TOTAL LPE Lottery Profits					86034
Education Fund Group	\$	2,000,000	\$	2,000,000	86035
TOTAL ALL BUDGET FUND GROUPS	\$	229,736,017	\$	266,206,185	86036

Section 209.90.03. LEASE RENTAL PAYMENTS 86038

The foregoing appropriation item 230-428, Lease Rental 86039
 Payments, shall be used to meet all payments at the times they are 86040
 required to be made during the period from July 1, 2005, to June 86041
 30, 2007, by the School Facilities Commission under leases and 86042
 agreements made under section 3318.26 of the Revised Code, but 86043
 limited to the aggregate amount of \$63,294,900. Nothing in this 86044
 act shall be deemed to contravene the obligation of the state to 86045
 pay, without necessity for further appropriation, from the sources 86046
 pledged thereto, the bond service charges on obligations issued 86047
 under Chapter 3318. of the Revised Code. 86048

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 86049

The foregoing appropriation item 230-908, Common Schools 86050
 General Obligation Debt Service, shall be used to pay all debt 86051
 service and related financing costs at the times they are required 86052
 to be made under sections 151.01 and 151.03 of the Revised Code 86053

during the period from July 1, 2005, to June 30, 2007. The Office 86054
of the Sinking Fund or the Director of Budget and Management shall 86055
effectuate the required payments by an intrastate transfer 86056
voucher. 86057

OPERATING EXPENSES 86058

The foregoing appropriation item 230-644, Operating Expenses, 86059
shall be used by the Ohio School Facilities Commission to carry 86060
out its responsibilities under this section and Chapter 3318. of 86061
the Revised Code. 86062

In both fiscal years 2006 and 2007, the Executive Director of 86063
the Ohio School Facilities Commission shall certify on a quarterly 86064
basis to the Director of Budget and Management the amount of cash 86065
from interest earnings to be transferred from the School Building 86066
Assistance Fund (Fund 032), the Public School Building Fund (Fund 86067
021), and the Educational Facilities Trust Fund (Fund N87) to the 86068
Ohio School Facilities Commission Fund (Fund 5E3). The amount 86069
transferred may not exceed investment earnings credited to the 86070
School Building Assistance Fund (Fund 032), less any amount 86071
required to be paid for federal arbitrage rebate purposes. 86072

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 86073

At the request of the Executive Director of the Ohio School 86074
Facilities Commission, the Director of Budget and Management may 86075
cancel encumbrances for school district projects from a previous 86076
biennium if the district has not raised its local share of project 86077
costs within one year of receiving Controlling Board approval 86078
under section 3318.05 of the Revised Code. The Executive Director 86079
of the Ohio School Facilities Commission shall certify the amounts 86080
of the canceled encumbrances to the Director of Budget and 86081
Management on a quarterly basis. The amounts of the canceled 86082
encumbrances are hereby appropriated. 86083

Section 209.90.06. EXTREME ENVIRONMENTAL CONTAMINATION OF 86084
SCHOOL FACILITIES 86085

Notwithstanding any other provision of law to the contrary, 86086
the School Facilities Commission may provide assistance under the 86087
Exceptional Needs School Facilities Program established in section 86088
3318.37 of the Revised Code to any school district, and not 86089
exclusively to a school district in the lowest fifty per cent of 86090
adjusted valuation per pupil on the current ranking of school 86091
districts established under section 3317.02 of the Revised Code, 86092
for the purpose of the relocation or replacement of school 86093
facilities required as a result of extreme environmental 86094
contamination. 86095

The School Facilities Commission shall contract with an 86096
independent environmental consultant to conduct a study and to 86097
report to the commission as to the seriousness of the 86098
environmental contamination, whether the contamination violates 86099
applicable state and federal standards, and whether the facilities 86100
are no longer suitable for use as school facilities. The 86101
commission then shall make a determination regarding funding for 86102
the relocation or replacement of the school facilities. If the 86103
federal government or other public or private entity provides 86104
funds for restitution of costs incurred by the state or school 86105
district in the relocation or replacement of the school 86106
facilities, the school district shall use such funds in excess of 86107
the school district's share to refund the state for the state's 86108
contribution to the environmental contamination portion of the 86109
project. The school district may apply an amount of such 86110
restitution funds up to an amount equal to the school district's 86111
portion of the project, as defined by the commission, toward 86112
paying its portion of that project to reduce the amount of bonds 86113
the school district otherwise must issue to receive state 86114

assistance under sections 3318.01 to 3318.20 of the Revised Code. 86115

Section 209.90.09. CANTON CITY SCHOOL DISTRICT PROJECT 86116

(A) The Ohio School Facilities Commission may commit up to 86117
thirty-five million dollars to the Canton City School District for 86118
construction of a facility described in this section, in lieu of a 86119
high school that would otherwise be authorized under Chapter 3318. 86120
of the Revised Code. The Commission shall not commit funds under 86121
this section unless all of the following conditions are met: 86122

(1) The District has entered into a cooperative agreement 86123
with a state-assisted technical college. 86124

(2) The District has received an irrevocable commitment of 86125
additional funding from nonpublic sources. 86126

(3) The facility is intended to serve both secondary and 86127
postsecondary instructional purposes. 86128

(B) The Commission shall enter into an agreement with the 86129
District for the construction of the facility authorized under 86130
this section that is separate from and in addition to the 86131
agreement required for the District's participation in the 86132
Classroom Facilities Assistance Program under section 3318.08 of 86133
the Revised Code. Notwithstanding that section and sections 86134
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 86135
agreement shall provide, but not be limited to, the following: 86136

(1) The Commission shall not have any oversight 86137
responsibilities over the construction of the facility. 86138

(2) The facility need not comply with the specifications for 86139
plans and materials for high schools adopted by the Commission. 86140

(3) The Commission may decrease the basic project cost that 86141
would otherwise be calculated for a high school under Chapter 86142
3318. of the Revised Code. 86143

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

Section 209.93. SOS SECRETARY OF STATE

General Revenue Fund

GRF 050-321	Operating Expenses	\$	2,585,000	\$	2,585,000	86158
GRF 050-403	Election Statistics	\$	103,936	\$	103,936	86159
GRF 050-407	Pollworkers Training	\$	277,997	\$	277,997	86160
GRF 050-409	Litigation	\$	4,652	\$	4,652	86161

Expenditures

TOTAL GRF General Revenue Fund \$ 2,971,585 \$ 2,971,585 86162

General Services Fund Group 86163

4S8 050-610 Board of Voting \$ 7,200 \$ 7,200 86164

Machine Examiners

412 050-609	Notary Commission	\$	685,250	\$	685,249	86165
413 050-601	Information Systems	\$	169,955	\$	169,955	86166
414 050-602	Citizen Education Fund	\$	75,700	\$	55,712	86167
TOTAL	General Services Fund Group	\$	938,105	\$	918,116	86168

Federal Special Revenue Fund Group 86169

3AS 050-616 2005 HAVA Voting \$ 37,436,203 \$ 0 86170

Machines

3X4 050-612 Ohio Center/Law	\$	41,000	\$	41,000	86171
Related Educational					
Grant					
TOTAL FED Federal Special Revenue					86172
Fund Group	\$	37,477,203	\$	41,000	86173
State Special Revenue Fund Group					86174
5N9 050-607 Technology	\$	129,565	\$	129,565	86175
Improvements					
599 050-603 Business Services	\$	13,741,745	\$	13,761,734	86176
Operating Expenses					
TOTAL SSR State Special Revenue					86177
Fund Group	\$	13,871,310	\$	13,891,299	86178
Holding Account Redistribution Fund Group					86179
R01 050-605 Uniform Commercial	\$	65,000	\$	65,000	86180
Code Refunds					
R02 050-606 Corporate/Business	\$	100,000	\$	100,000	86181
Filing Refunds					
TOTAL 090 Holding Account					86182
Redistribution Fund Group	\$	165,000	\$	165,000	86183
TOTAL ALL BUDGET FUND GROUPS	\$	55,423,203	\$	17,987,000	86184
BOARD OF VOTING MACHINE EXAMINERS					86185
The foregoing appropriation item 050-610, Board of Voting					86186
Machine Examiners, shall be used to pay for the services and					86187
expenses of the members of the Board of Voting Machine Examiners,					86188
and for other expenses that are authorized to be paid from the					86189
Board of Voting Machine Examiners Fund, which is created in					86190
section 3506.05 of the Revised Code. Moneys not used shall be					86191
returned to the person or entity submitting the equipment for					86192
examination. If it is determined that additional appropriations					86193
are necessary, such amounts are appropriated.					86194
HOLDING ACCOUNT REDISTRIBUTION GROUP					86195

The foregoing appropriation items 050-605 and 050-606, 86196
Holding Account Redistribution Fund Group, shall be used to hold 86197
revenues until they are directed to the appropriate accounts or 86198
until they are refunded. If it is determined that additional 86199
appropriations are necessary, such amounts are appropriated. 86200

Section 209.96. SEN THE OHIO SENATE 86201

General Revenue Fund 86202

GRF 020-321 Operating Expenses \$ 11,546,357 \$ 11,661,821 86203

TOTAL GRF General Revenue Fund \$ 11,546,357 \$ 11,661,821 86204

General Services Fund Group 86205

102 020-602 Senate Reimbursement \$ 444,025 \$ 444,025 86206

409 020-601 Miscellaneous Sales \$ 34,155 \$ 34,155 86207

TOTAL GSF General Services 86208

Fund Group \$ 478,180 \$ 478,180 86209

TOTAL ALL BUDGET FUND GROUPS \$ 12,024,537 \$ 12,140,001 86210

OPERATING EXPENSES 86211

On July 1, 2005, or as soon as possible thereafter, the Clerk 86212
of the Senate shall certify to the Director of Budget and 86213
Management the total fiscal year 2005 unencumbered appropriations 86214
in appropriation item 020-321, Operating Expenses. The Clerk may 86215
direct the Director of Budget and Management to transfer an amount 86216
not to exceed the total fiscal year 2005 unencumbered 86217
appropriations to fiscal year 2006 for use within appropriation 86218
item 020-321, Operating Expenses. Additional appropriation 86219
authority equal to the amount certified by the Clerk is hereby 86220
appropriated to appropriation item 020-321, Operating Expenses, in 86221
fiscal year 2006. 86222

On July 1, 2006, or as soon as possible thereafter, the Clerk 86223
of the Senate shall certify to the Director of Budget and 86224
Management the total fiscal year 2006 unencumbered appropriations 86225

in appropriation item 020-321, Operating Expenses. The Clerk may 86226
direct the Director of Budget and Management to transfer an amount 86227
not to exceed the total fiscal year 2006 unencumbered 86228
appropriations to fiscal year 2007 for use within appropriation 86229
item 020-321, Operating Expenses. Additional appropriation 86230
authority equal to the amount certified by the Clerk is hereby 86231
appropriated to appropriation item 020-321, Operating Expenses, in 86232
fiscal year 2007. 86233

Section 209.99. CSF COMMISSIONERS OF THE SINKING FUND 86234

Debt Service Fund Group 86235

072 155-902 Highway Capital \$ 180,620,600 \$ 196,464,900 86236

Improvements Bond

Retirement Fund

073 155-903 Natural Resources Bond \$ 26,166,000 \$ 24,659,100 86237

Retirement Fund

074 155-904 Conservation Projects \$ 14,687,300 \$ 17,668,800 86238

Bond Service Fund

076 155-906 Coal Research and \$ 7,071,100 \$ 8,980,800 86239

Development Bond

Retirement Fund

077 155-907 State Capital \$ 163,131,400 \$ 174,545,100 86240

Improvements Bond

Retirement Fund

078 155-908 Common Schools Bond \$ 200,724,700 \$ 236,911,500 86241

Retirement Fund

079 155-909 Higher Education Bond \$ 140,600,300 \$ 158,114,100 86242

Retirement Fund

TOTAL DSF Debt Service Fund Group \$ 733,001,400 \$ 817,344,300 86243

TOTAL ALL BUDGET FUND GROUPS \$ 733,001,400 \$ 817,344,300 86244

ADDITIONAL APPROPRIATIONS 86245

Appropriation items in this section are for the purpose of 86246

paying debt service and financing costs on bonds or notes of the state issued under the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

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COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER AUTHORIZATION

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Notwithstanding any other provision of law to the contrary, the Commissioners of the Sinking Fund shall certify to the Director of Budget and Management, and the director shall then transfer, the cash balance remaining after provision for the payment of all outstanding bonds, notes, coupons, and charges from the Highway Obligation Bond Retirement Fund (Fund 071) to the Highway Capital Improvements Bond Service Fund (Fund 072), created by section 151.06 of the Revised Code, as expeditiously as possible after the effective date of this section.

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Section 212.03. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY

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General Services Fund Group
4K9 886-609 Operating Expenses \$ 408,864 \$ 0
TOTAL GSF General Services Fund Group \$ 408,864 \$ 0
TOTAL ALL BUDGET FUND GROUPS \$ 408,864 \$ 0

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Section 212.06. BTA BOARD OF TAX APPEALS

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General Revenue Fund
GRF 116-321 Operating Expenses \$ 2,155,055 \$ 2,211,035
TOTAL GRF General Revenue Fund \$ 2,155,055 \$ 2,211,035
TOTAL ALL BUDGET FUND GROUPS \$ 2,155,055 \$ 2,211,035

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Section 212.09. TAX DEPARTMENT OF TAXATION

86276

General Revenue Fund				86277
GRF 110-321 Operating Expenses	\$	91,439,754	\$ 91,439,754	86278
GRF 110-412 Child Support Administration	\$	71,988	\$ 71,988	86279
GRF 110-901 Property Tax Allocation - Taxation	\$	430,102,680	\$ 409,946,241	86280
GRF 110-906 Tangible Tax Exemption - Taxation	\$	18,355,923	\$ 13,766,942	86281
TOTAL GRF General Revenue Fund	\$	539,970,345	\$ 515,224,925	86282
Agency Fund Group				86283
095 110-901 Municipal Income Tax	\$	21,000,000	\$ 21,000,000	86284
425 110-635 Tax Refunds	\$	1,483,900,000	\$ 1,582,700,000	86285
TOTAL AGY Agency Fund Group	\$	1,504,900,000	\$ 1,603,700,000	86286
General Services Fund Group				86287
228 110-628 Tax Reform System Implementation	\$	7,000,000	\$ 7,000,000	86288
433 110-602 Tape File Account	\$	96,165	\$ 96,165	86289
5BW 110-630 Tax Amnesty Promotion and Administration	\$	2,000,000	\$ 0	86290
5W4 110-625 Centralized Tax Filing and Payment	\$	2,500,000	\$ 2,000,000	86291
5W7 110-627 Exempt Facility Administration	\$	36,000	\$ 36,000	86292
TOTAL GSF General Services Fund Group	\$	11,632,165	\$ 9,132,165	86293
Federal Special Revenue Fund Group				86294
3J6 110-601 Motor Fuel Compliance	\$	25,000	\$ 25,000	86295
TOTAL FED Federal Special Revenue Fund Group	\$	25,000	\$ 25,000	86296
State Special Revenue Fund Group				86297
4C6 110-616 International	\$	706,855	\$ 706,855	86298
				86300

		Registration Plan					
4R6	110-610	Tire Tax	\$	65,000	\$	65,000	86301
		Administration					
435	110-607	Local Tax	\$	15,880,987	\$	16,394,879	86302
		Administration					
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000	86303
437	110-606	Litter Tax and Natural	\$	625,232	\$	625,232	86304
		Resource Tax					
		Administration					
438	110-609	School District Income	\$	2,599,999	\$	2,599,999	86305
		Tax					
5BQ	110-629	Commercial Activity	\$	6,000,000	\$	500,000	86306
		Tax Administration					
5N5	110-605	Municipal Income Tax	\$	265,000	\$	265,000	86307
		Administration					
5N6	110-618	Kilowatt Hour Tax	\$	85,000	\$	85,000	86308
		Administration					
5V7	110-622	Motor Fuel Tax	\$	4,268,345	\$	4,397,263	86309
		Administration					
5V8	110-623	Property Tax	\$	12,758,643	\$	12,967,102	86310
		Administration					
639	110-614	Cigarette Tax	\$	168,925	\$	168,925	86311
		Enforcement					
642	110-613	Ohio Political Party	\$	600,000	\$	600,000	86312
		Distributions					
688	110-615	Local Excise Tax	\$	300,000	\$	300,000	86313
		Administration					
TOTAL	SSR	State Special Revenue					86314
Fund Group			\$	45,673,986	\$	41,025,255	86315
Holding Account		Redistribution Fund Group					86316
R10	110-611	Tax Distributions	\$	50,000	\$	50,000	86317
R11	110-612	Miscellaneous Income	\$	50,000	\$	50,000	86318
		Tax Receipts					

TOTAL 090 Holding Account				86319	
Redistribution Fund Group	\$	100,000	\$	100,000	86320
TOTAL ALL BUDGET FUND GROUPS	\$	2,102,301,496	\$	2,169,207,345	86321

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX 86322
EXEMPTION 86323

The foregoing appropriation item 110-901, Property Tax 86324
Allocation - Taxation, is hereby appropriated to pay for the 86325
state's costs incurred because of the Homestead Exemption, the 86326
Manufactured Home Property Tax Rollback, and the Property Tax 86327
Rollback. The Tax Commissioner shall distribute these funds 86328
directly to the appropriate local taxing districts, except for 86329
school districts, notwithstanding the provisions in sections 86330
321.24 and 323.156 of the Revised Code, which provide for payment 86331
of the Homestead Exemption, the Manufactured Home Property Tax 86332
Rollback, and Property Tax Rollback by the Tax Commissioner to the 86333
appropriate county treasurer and the subsequent redistribution of 86334
these funds to the appropriate local taxing districts by the 86335
county auditor. 86336

The foregoing appropriation item 110-906, Tangible Tax 86337
Exemption - Taxation, is hereby appropriated to pay for the 86338
state's costs incurred because of the tangible personal property 86339
tax exemption required by division (C)(3) of section 5709.01 of 86340
the Revised Code. The Tax Commissioner shall distribute to each 86341
county treasurer the total amount appearing in the notification 86342
from the county treasurer under division (G) of section 321.24 of 86343
the Revised Code for all local taxing districts located in the 86344
county except for school districts, notwithstanding the provision 86345
in section 321.24 of the Revised Code which provides for payment 86346
of the \$10,000 tangible personal property tax exemption by the Tax 86347
Commissioner to the appropriate county treasurer for all local 86348
taxing districts located in the county including school districts. 86349
The county auditor shall distribute the amount paid by the Tax 86350

Commissioner among the appropriate local taxing districts except 86351
for school districts under division (G) of section 321.24 of the 86352
Revised Code. 86353

Upon receipt of these amounts, each local taxing district 86354
shall distribute the amount among the proper funds as if it had 86355
been paid as real or tangible personal property taxes. Payments 86356
for the costs of administration shall continue to be paid to the 86357
county treasurer and county auditor as provided for in sections 86358
319.54, 321.26, and 323.156 of the Revised Code. 86359

Any sums, in addition to the amounts specifically 86360
appropriated in appropriation items 110-901, Property Tax 86361
Allocation - Taxation, for the Homestead Exemption, the 86362
Manufactured Home Property Tax Rollback, and the Property Tax 86363
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 86364
for the \$10,000 tangible personal property tax exemption payments, 86365
which are determined to be necessary for these purposes, are 86366
hereby appropriated. 86367

MUNICIPAL INCOME TAX 86368

The foregoing appropriation item 110-901, Municipal Income 86369
Tax, shall be used to make payments to municipal corporations 86370
under section 5745.05 of the Revised Code. If it is determined 86371
that additional appropriations are necessary to make these 86372
payments, such amounts are hereby appropriated. 86373

TAX REFUNDS 86374

The foregoing appropriation item 110-635, Tax Refunds, shall 86375
be used to pay refunds under section 5703.052 of the Revised Code. 86376
If it is determined that additional appropriations are necessary 86377
for this purpose, such amounts are hereby appropriated. 86378

TAX REFORM SYSTEM IMPLEMENTATION FUND 86379

Notwithstanding section 3734.9010, division (B)(2)(c) of 86380

section 4505.09, division (B) of section 5703.12, section 5703.80, 86381
division (C)(6) of section 5727.81, sections 5733.122 and 86382
5735.053, division (C) of section 5739.21, section 5745.03, 86383
division (C) of section 5747.03, and section 5747.113 of the 86384
Revised Code and any other statutory provision to the contrary, 86385
any residual cash balances determined and certified by the Tax 86386
Commissioner to the Director of Budget and Management shall be 86387
transferred on July 1, 2005, or as soon as possible thereafter, to 86388
the Tax Reform System Implementation Fund (Fund 228), which is 86389
hereby created in the State Treasury. The fund shall be used to 86390
pay expenses incurred by the Department of Taxation in providing 86391
an integrated tax system that will accommodate the needs of tax 86392
reform and allow for improved customer service, processing 86393
efficiency, compliance enforcement, and reporting. 86394

INTERNATIONAL REGISTRATION PLAN AUDIT 86395

The foregoing appropriation item 110-616, International 86396
Registration Plan, shall be used under section 5703.12 of the 86397
Revised Code for audits of persons with vehicles registered under 86398
the International Registration Plan. 86399

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 86400

Of the foregoing appropriation item 110-607, Local Tax 86401
Administration, the Tax Commissioner may disburse funds, if 86402
available, for the purposes of paying travel expenses incurred by 86403
members of Ohio's delegation to the Streamlined Sales Tax Project, 86404
as appointed under section 5740.02 of the Revised Code. Any travel 86405
expense reimbursement paid for by the Department of Taxation shall 86406
be done in accordance with applicable state laws and guidelines. 86407

LITTER CONTROL TAX ADMINISTRATION FUND 86408

Notwithstanding section 5733.12 of the Revised Code, during 86409
the period from July 1, 2005, to June 30, 2006, the amount of 86410
\$625,232, and during the period from July 1, 2006, to June 30, 86411

2007, the amount of \$625,232, received by the Tax Commissioner 86412
under Chapter 5733. of the Revised Code, shall be credited to the 86413
Litter Control Tax Administration Fund (Fund 437). 86414

TAX AMNESTY PROMOTION AND ADMINISTRATION 86415

The foregoing appropriation item 110-630, Tax Amnesty 86416
Promotion and Administration, shall be used to pay expenses 86417
incurred to promote and administer the tax amnesty program run 86418
from November 1, 2005, through December 15, 2005, by the 86419
Department of Taxation. The Department of Taxation and Attorney 86420
General's Office shall work in close collaboration on promotion 86421
activities in relation to the Tax Amnesty Promotion and 86422
Administration program. 86423

CENTRALIZED TAX FILING AND PAYMENT FUND 86424

The Director of Budget and Management, under a plan submitted 86425
by the Tax Commissioner, or as otherwise determined by the 86426
Director of Budget and Management, shall set a schedule to 86427
transfer cash from the General Revenue Fund to the credit of the 86428
Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers 86429
of cash shall not exceed \$4,500,000 in the biennium. 86430

COMMERCIAL ACTIVITY TAX ADMINISTRATION 86431

The foregoing appropriation item 110-629, Commercial Activity 86432
Tax Administration, shall be used to pay expenses incurred by the 86433
Department of Taxation to implement and administer the Commercial 86434
Activity Tax under Chapter 5751. of the Revised Code. 86435

Section 212.12. DOT DEPARTMENT OF TRANSPORTATION 86436

Transportation Modes 86437

General Revenue Fund 86438

GRF 775-451 Public Transportation \$ 16,300,000 \$ 16,300,000 86439
- State

GRF 776-465 Ohio Rail Development \$ 2,700,000 \$ 2,700,000 86440

	Commission				
GRF 776-466	Railroad	\$	789,600	\$	789,600
	Crossing/Grade				
	Separation				
GRF 777-471	Airport Improvements -	\$	1,793,985	\$	1,793,985
	State				
GRF 777-473	Rickenbacker Lease	\$	594,500	\$	320,300
	Payments - State				
TOTAL GRF	General Revenue Fund	\$	22,178,085	\$	21,903,885
	Federal Special Revenue Fund Group				86445
3B9 776-662	Rail Transportation -	\$	10,000	\$	10,000
	Federal				
TOTAL FSR	Federal Special Revenue				86447
Fund Group		\$	10,000	\$	10,000
	State Special Revenue Fund Group				86449
4N4 776-663	Panhandle Lease	\$	764,400	\$	764,400
	Reserve Payments				
4N4 776-664	Rail Transportation -	\$	2,111,500	\$	2,111,500
	Other				
5CF 776-667	Rail Transload	\$	500,000	\$	0
	Facilities				
5W9 777-615	County Airport	\$	570,000	\$	570,000
	Maintenance Assistance				
TOTAL SSR	State Special Revenue				86454
Fund Group		\$	3,945,900	\$	3,445,900
TOTAL ALL BUDGET FUND GROUPS		\$	26,133,985	\$	25,359,785
	ELDERLY AND DISABLED FARE ASSISTANCE				86457
	Of the foregoing appropriation item 775-451, Public				86458
	Transportation - State, up to \$6,000,000 in fiscal year 2006 and				86459
	\$7,000,000 in fiscal year 2007 may be used to make grants to				86460
	county transit boards, regional transit authorities, regional				86461
	transit commissions, counties, municipal corporations, and private				86462

nonprofit organizations that operate or will operate public transportation systems, for the purpose of reducing the transit fares of elderly or disabled persons. The Director of Transportation shall establish criteria for the distribution of these grants under division (B) of section 5501.07 of the Revised Code.

AVIATION LEASE PAYMENTS

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

RAIL TRANSLOAD FACILITIES

The foregoing appropriation item 776-667, Rail Transload Facilities, shall be used to fund the Rail Transload Initiative, a statewide pilot program administered by the Ohio Rail Development Commission, to provide grants to assist communities and railroads and other businesses to develop facilities that will enhance the ability of railroads to work with other transport modes to move bulk commodities more efficiently and safely.

Section 212.15. TOS TREASURER OF STATE

General Revenue Fund
GRF 090-321 Operating Expenses \$ 9,041,937 \$ 9,041,937
GRF 090-401 Office of the Sinking Fund \$ 521,576 \$ 521,576

GRF 090-402	Continuing Education	\$	435,770	\$	435,770	86493
GRF 090-524	Police and Fire	\$	25,000	\$	20,000	86494
	Disability Pension					86495
	Fund					
GRF 090-534	Police & Fire Ad Hoc	\$	180,000	\$	150,000	86496
	Cost					
	of Living					86497
GRF 090-554	Police and Fire	\$	1,100,000	\$	1,000,000	86498
	Survivor					
	Benefits					86499
GRF 090-575	Police and Fire Death	\$	20,000,000	\$	20,000,000	86500
	Benefits					86501
TOTAL GRF General Revenue Fund		\$	31,304,283	\$	31,169,283	86502
Agency Fund Group						86503
425 090-635	Tax Refunds	\$	31,000,000	\$	31,000,000	86504
TOTAL Agency Fund Group		\$	31,000,000	\$	31,000,000	86505
General Services Fund Group						86506
4E9 090-603	Securities Lending	\$	2,721,800	\$	2,814,000	86507
	Income					
577 090-605	Investment Pool	\$	550,000	\$	550,000	86508
	Reimbursement					86509
605 090-609	Treasurer of State	\$	700,000	\$	700,000	86510
	Administrative Fund					86511
TOTAL GSF General Services						86512
Fund Group		\$	3,971,800	\$	4,064,000	86513
State Special Revenue Fund Group						86514
5C5 090-602	County Treasurer	\$	135,000	\$	135,000	86515
	Education					
TOTAL SSR State Special Revenue						86516
Fund Group		\$	135,000	\$	135,000	86517
TOTAL ALL BUDGET FUND GROUPS		\$	66,411,083	\$	66,368,283	86518

Section 212.15.03. OFFICE OF THE SINKING FUND 86520

The foregoing appropriation item 090-401, Office of the 86521
Sinking Fund, shall be used for financing and other costs incurred 86522
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 86523
Public Facilities Commission or its secretary, or the Treasurer of 86524
State, with respect to State of Ohio general obligation bonds or 86525
notes, including, but not limited to, printing, advertising, 86526
delivery, rating fees and the procurement of ratings, professional 86527
publications, membership in professional organizations, and 86528
services referred to in division (D) of section 151.01 of the 86529
Revised Code. The General Revenue Fund shall be reimbursed for 86530
such costs by intrastate transfer voucher pursuant to a 86531
certification by the Office of the Sinking Fund of the actual 86532
amounts used. The amounts necessary to make such reimbursements 86533
are appropriated from the general obligation bond retirement funds 86534
created by the Constitution and laws to the extent such costs are 86535
incurred. 86536

POLICE AND FIRE DEATH BENEFIT FUND 86537

The foregoing appropriation item 090-575, Police and Fire 86538
Death Benefits, shall be disbursed annually by the Treasurer of 86539
State at the beginning of each fiscal year to the Board of 86540
Trustees of the Ohio Police and Fire Pension Fund. By the 86541
twentieth day of June of each fiscal year, the Board of Trustees 86542
of the Ohio Police and Fire Pension Fund shall certify to the 86543
Treasurer of State the amount disbursed in the current fiscal year 86544
to make the payments required by section 742.63 of the Revised 86545
Code and shall return to the Treasurer of State moneys received 86546
from this appropriation item but not disbursed. 86547

TAX REFUNDS 86548

The foregoing appropriation item 090-635, Tax Refunds, shall 86549

be used to pay refunds under section 5703.052 of the Revised Code. 86550
 If the Director of Budget and Management determines that 86551
 additional amounts are necessary for this purpose, such amounts 86552
 are hereby appropriated. 86553

Section 212.18. UST PETROLEUM UNDERGROUND STORAGE TANK 86554

Agency Fund Group 86555
 691 810-632 PUSTRCB Staff \$ 1,075,158 \$ 1,116,658 86556
 TOTAL AGY Agency Fund Group \$ 1,075,158 \$ 1,116,658 86557
 TOTAL ALL BUDGET FUND GROUPS \$ 1,075,158 \$ 1,116,658 86558

Section 212.21. TTA OHIO TUITION TRUST AUTHORITY 86560

State Special Revenue Fund Group 86561
 5AM 095-603 Index Savings Plan \$ 2,866,240 \$ 3,104,865 86562
 5P3 095-602 Variable College \$ 2,042,486 \$ 2,118,568 86563
 Savings Fund
 645 095-601 Operating Expenses \$ 807,260 \$ 891,173 86564
 TOTAL SSR State Special Revenue 86565
 Fund Group \$ 5,715,986 \$ 6,114,606 86566
 TOTAL ALL BUDGET FUND GROUPS \$ 5,715,986 \$ 6,114,606 86567

Section 212.24. OVH OHIO VETERANS' HOME 86569

General Revenue Fund 86570
 GRF 430-100 Personal Services \$ 20,629,914 \$ 21,030,031 86571
 GRF 430-200 Maintenance \$ 6,396,200 \$ 6,396,200 86572
 TOTAL GRF General Revenue Fund \$ 27,026,114 \$ 27,426,231 86573
 General Services Fund Group 86574
 484 430-603 Rental and Service \$ 882,737 \$ 882,737 86575
 Revenue
 TOTAL GSF General Services Fund \$ 882,737 \$ 882,737 86576
 Group

Federal Special Revenue Fund Group				86577
3L2 430-601 Federal VA Per Diem	\$	14,990,510	\$ 15,290,320	86578
Grant				
TOTAL FED Federal Special Revenue				86579
Fund Group	\$	14,990,510	\$ 15,290,320	86580
State Special Revenue Fund Group				86581
4E2 430-602 Veterans Home	\$	8,322,731	\$ 8,530,800	86582
Operating				
604 430-604 Veterans Home	\$	770,096	\$ 770,096	86583
Improvement				
TOTAL SSR State Special Revenue				86584
Fund Group	\$	9,092,827	\$ 9,300,896	86585
TOTAL ALL BUDGET FUND GROUPS	\$	51,992,188	\$ 52,900,184	86586
Section 212.27. VET VETERANS' ORGANIZATIONS				86588
General Revenue Fund				86589
VAP AMERICAN EX-PRISONERS OF WAR				86590
GRF 743-501 State Support	\$	25,030	\$ 25,030	86591
VAN ARMY AND NAVY UNION, USA, INC.				86592
GRF 746-501 State Support	\$	55,012	\$ 55,012	86593
VKW KOREAN WAR VETERANS				86594
GRF 747-501 State Support	\$	49,453	\$ 49,453	86595
VJW JEWISH WAR VETERANS				86596
GRF 748-501 State Support	\$	29,715	\$ 29,715	86597
VCW CATHOLIC WAR VETERANS				86598
GRF 749-501 State Support	\$	57,990	\$ 57,990	86599
VPH MILITARY ORDER OF THE PURPLE HEART				86600
GRF 750-501 State Support	\$	56,377	\$ 56,377	86601
VVV VIETNAM VETERANS OF AMERICA				86602
GRF 751-501 State Support	\$	185,954	\$ 185,954	86603
VAL AMERICAN LEGION OF OHIO				86604
GRF 752-501 State Support	\$	252,328	\$ 252,328	86605

	VII AMVETS			86606
GRF 753-501	State Support	\$ 237,919	\$ 237,919	86607
	VAV DISABLED AMERICAN VETERANS			86608
GRF 754-501	State Support	\$ 166,308	\$ 166,308	86609
	VMC MARINE CORPS LEAGUE			86610
GRF 756-501	State Support	\$ 85,972	\$ 85,972	86611
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION			86612
GRF 757-501	State Support	\$ 5,946	\$ 5,946	86613
	VFW VETERANS OF FOREIGN WARS			86614
GRF 758-501	State Support	\$ 196,615	\$ 196,615	86615
TOTAL GRF	General Revenue Fund	\$ 1,404,619	\$ 1,404,619	86616
TOTAL ALL BUDGET FUND GROUPS		\$ 1,404,619	\$ 1,404,619	86617

RELEASE OF FUNDS 86618

The foregoing appropriation items 743-501, 746-501, 747-501, 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 756-501, 757-501, and 758-501, State Support, shall be released upon approval by the Director of Budget and Management. 86619-86622

CENTRAL OHIO UNITED SERVICES ORGANIZATION 86623

Of the foregoing appropriation item 751-501, State Support, Vietnam Veterans of America, \$50,000 in each fiscal year shall be used to support the activities of the Central Ohio USO. 86624-86626

VETERANS SERVICE COMMISSION EDUCATION 86627

Of the foregoing appropriation item 753-501, State Support, AMVETS, up to \$20,000 in each fiscal year may be used to provide moneys to the Association of County Veterans Service Commissioners to reimburse its member county veterans service commissions for costs incurred in carrying out educational and outreach duties required under divisions (E) and (F) of section 5901.03 of the Revised Code. The Director of Budget and Management shall release these funds upon the presentation of an itemized receipt, approved by the Governor's Office of Veterans Affairs, from the association 86628-86636

for reasonable and appropriate expenses incurred while performing 86637
these duties. The association shall establish uniform procedures 86638
for reimbursing member commissions. 86639

Section 212.30. DVM STATE VETERINARY MEDICAL BOARD 86640

General Services Fund Group 86641
4K9 888-609 Operating Expenses \$ 353,691 \$ 0 86642
TOTAL GSF General Services 86643
Fund Group \$ 353,691 \$ 0 86644
TOTAL ALL BUDGET FUND GROUPS \$ 353,691 \$ 0 86645

Section 212.33. DYS DEPARTMENT OF YOUTH SERVICES 86647

General Revenue Fund 86648
GRF 470-401 RECLAIM Ohio \$ 177,016,683 \$ 182,084,588 86649
GRF 470-412 Lease Rental Payments \$ 20,267,500 \$ 21,882,700 86650
GRF 470-510 Youth Services \$ 18,608,587 \$ 18,608,587 86651
GRF 472-321 Parole Operations \$ 14,358,995 \$ 14,962,871 86652
GRF 477-321 Administrative \$ 14,239,494 \$ 14,754,420 86653
Operations
TOTAL GRF General Revenue Fund \$ 244,491,259 \$ 252,293,166 86654
General Services Fund Group 86655
175 470-613 Education \$ 10,112,529 \$ 9,450,598 86656
Reimbursement
4A2 470-602 Child Support \$ 320,641 \$ 328,657 86657
4G6 470-605 General Operational \$ 10,000 \$ 10,000 86658
Funds
479 470-609 Employee Food Service \$ 141,466 \$ 137,666 86659
523 470-621 Wellness Program \$ 46,937 \$ 0 86660
6A5 470-616 Building Demolition \$ 31,100 \$ 0 86661
TOTAL GSF General Services 86662
Fund Group \$ 10,662,673 \$ 9,926,921 86663
Federal Special Revenue Fund Group 86664

3V5	470-604	Juvenile Justice/Delinquency Prevention	\$	4,254,745	\$	4,254,746	86665
3W0	470-611	Federal Juvenile Programs FFY 02	\$	222,507	\$	0	86666
3Z8	470-625	Federal Juvenile Programs FFY 04	\$	1,500,001	\$	773,812	86667
3Z9	470-626	Federal Juvenile Programs FFY 05	\$	465,000	\$	0	86668
321	470-601	Education	\$	1,422,580	\$	1,465,399	86669
321	470-603	Juvenile Justice Prevention	\$	1,981,169	\$	2,006,505	86670
321	470-606	Nutrition	\$	2,471,550	\$	2,470,655	86671
321	470-614	Title IV-E Reimbursements	\$	4,960,589	\$	6,012,361	86672
321	470-617	Americorps Programs	\$	456,000	\$	463,700	86673
TOTAL FED Federal Special Revenue							86674
Fund Group			\$	17,734,141	\$	17,447,178	86675
State Special Revenue Fund Group							86676
147	470-612	Vocational Education	\$	1,937,784	\$	2,009,866	86677
4W3	470-618	Help Me Grow	\$	11,000	\$	11,000	86678
5BH	470-628	Partnerships for Success	\$	1,500,000	\$	1,500,000	86679
TOTAL SSR State Special Revenue							86680
Fund Group			\$	3,448,784	\$	3,520,866	86681
TOTAL ALL BUDGET FUND GROUPS			\$	276,336,857	\$	283,188,131	86682
RECLAIM OHIO							86683
Of the foregoing appropriation item 470-401, RECLAIM Ohio,							86684
\$25,000 in each fiscal year shall be distributed directly to the							86685
Lighthouse Youth Services Wrap-Around Program.							86686
OHIO BUILDING AUTHORITY LEASE PAYMENTS							86687

The foregoing appropriation item 470-412, Lease Rental Payments, in the Department of Youth Services, shall be used for payments to the Ohio Building Authority for the period from July 1, 2005, to June 30, 2007, under the primary leases and agreements for facilities made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$42,150,200. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470-613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursement for state surplus property.

PARTNERSHIPS FOR SUCCESS

In fiscal year 2006, the foregoing appropriation item 470-628, Partnerships for Success, shall be used to support the Partnerships for Success Project. On or before January 1, 2007, the Director of Budget and Management shall transfer any amount of cash that remains unspent in the Partnerships for Success Fund (Fund 5BH) to the Children's Trust Fund (Fund 198).

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES

Any business relating to the funds associated with the Office 86718
of Criminal Justice Services' appropriation item 196-602, Criminal 86719
Justice Federal Programs, commenced but not completed by the 86720
Office of Criminal Justice Services or its director shall be 86721
completed by the Department of Youth Services or its director in 86722
the same manner, and with the same effect, as if completed by the 86723
Office of Criminal Justice Services or its director. No 86724
validation, cure, right, privilege, remedy, obligation, or 86725
liability is lost or impaired by reason of the transfer and shall 86726
be administered by the Department of Youth Services. 86727

Any action or proceeding against the Office of Criminal 86728
Justice Services pending on the effective date of this section 86729
shall not be affected by the transfer of responsibility to the 86730
Department of Youth Services, and shall be prosecuted or defended 86731
in the name of the Department of Youth Services or its director. 86732
In all such actions and proceedings, the Department of Youth 86733
Services or its director upon application of the court shall be 86734
substituted as party. 86735

Section 303.03. EXPENDITURES AND APPROPRIATION INCREASES 86736
APPROVED BY THE CONTROLLING BOARD 86737

Any money that the Controlling Board approves for expenditure 86738
or any increase in appropriation authority that the Controlling 86739
Board approves under sections 127.14, 131.35, and 131.39 of the 86740
Revised Code or any other provision of law is hereby appropriated 86741
for the period ending June 30, 2007. 86742

Section 303.06. PERSONAL SERVICE EXPENSES 86743

Unless otherwise prohibited by law, any appropriation from 86744
which personal service expenses are paid shall bear the employer's 86745
share of public employees' retirement, workers' compensation, 86746
disabled workers' relief, and all group insurance programs; the 86747

costs of centralized accounting, centralized payroll processing, 86748
and related personnel reports and services; the cost of the Office 86749
of Collective Bargaining; the cost of the Personnel Board of 86750
Review; the cost of the Employee Assistance Program; the cost of 86751
the affirmative action and equal employment opportunity programs 86752
administered by the Department of Administrative Services; the 86753
costs of interagency information management infrastructure; and 86754
the cost of administering the state employee merit system as 86755
required by section 124.07 of the Revised Code. These costs shall 86756
be determined in conformity with the appropriate sections of law 86757
and paid in accordance with procedures specified by the Office of 86758
Budget and Management. Expenditures from appropriation item 86759
070-601, Public Audit Expense - Local Government, in Fund 422 may 86760
be exempted from the requirements of this section. 86761

Section 303.09. RE-ISSUANCE OF VOIDED WARRANTS 86762

In order to provide funds for the reissuance of voided 86763
warrants under section 117.47 of the Revised Code, there is hereby 86764
appropriated, out of moneys in the state treasury from the fund 86765
credited as provided in section 117.47 of the Revised Code, that 86766
amount sufficient to pay such warrants when approved by the Office 86767
of Budget and Management. 86768

Section 303.12. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 86769
AGAINST THE STATE 86770

Except as otherwise provided in this section, an 86771
appropriation in this act or any other act may be used for the 86772
purpose of satisfying judgments, settlements, or administrative 86773
awards ordered or approved by the Court of Claims or by any other 86774
court of competent jurisdiction in connection with civil actions 86775
against the state. This authorization does not apply to 86776
appropriations to be applied to or used for payment of guarantees 86777

by or on behalf of the state, or for payments under lease 86778
agreements relating to, or debt service on, bonds, notes, or other 86779
obligations of the state. Notwithstanding any other statute to the 86780
contrary, this authorization includes appropriations from funds 86781
into which proceeds of direct obligations of the state are 86782
deposited only to the extent that the judgment, settlement, or 86783
administrative award is for, or represents, capital costs for 86784
which the appropriation may otherwise be used and is consistent 86785
with the purpose for which any related obligations were issued or 86786
entered into. Nothing contained in this section is intended to 86787
subject the state to suit in any forum in which it is not 86788
otherwise subject to suit, and is not intended to waive or 86789
compromise any defense or right available to the state in any suit 86790
against it. 86791

Section 303.13. CAPITAL PROJECT SETTLEMENTS 86792

This section specifies an additional and supplemental 86793
procedure to provide for payments of judgments and settlements if 86794
the Director of Budget and Management determines, pursuant to 86795
division (C)(4) of section 2743.19 of the Revised Code, that 86796
sufficient unencumbered moneys do not exist in the particular 86797
appropriation to pay the amount of a final judgment rendered 86798
against the state or a state agency, including the settlement of a 86799
claim approved by a court, in an action upon and arising out of a 86800
contractual obligation for the construction or improvement of a 86801
capital facility if the costs under the contract were payable in 86802
whole or in part from a state capital projects appropriation. In 86803
such a case, the director may either proceed pursuant to division 86804
(C)(4) of section 2743.19 of the Revised Code or apply to the 86805
Controlling Board to increase an appropriation or create an 86806
appropriation out of any unencumbered moneys in the state treasury 86807
to the credit of the capital projects fund from which the initial 86808

state appropriation was made. The Controlling Board may approve or
disapprove the application as submitted or modified. The amount of
an increase in appropriation or new appropriation specified in an
application approved by the Controlling Board is hereby
appropriated from the applicable capital projects fund and made
available for the payment of the judgment or settlement.

If the director does not make the application authorized by
this section or the Controlling Board disapproves the application,
and the director does not make application under division (C)(4)
of section 2743.19 of the Revised Code, the director shall for the
purpose of making that payment make a request to the General
Assembly as provided for in division (C)(5) of that section.

Section 303.18. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state
treasury to the credit of the General Revenue Fund, which are not
otherwise appropriated, funds sufficient to make any payment
required by division (B)(2) of section 5747.03 of the Revised
Code.

**Section 303.21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED
BALANCES OF OPERATING APPROPRIATIONS**

An unexpended balance of an operating appropriation or
reappropriation that a state agency lawfully encumbered prior to
the close of a fiscal year is reappropriated on the first day of
July of the following fiscal year from the fund from which it was
originally appropriated or reappropriated for the following period
and shall remain available only for the purpose of discharging the
encumbrance:

(A) For an encumbrance for personal services, maintenance,
equipment, or items for resale, other than an encumbrance for an
item of special order manufacture not available on term contract

or in the open market or for reclamation of land or oil and gas wells for a period of not more than five months from the end of the fiscal year;

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(B) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the 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;

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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;

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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.

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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.

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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.

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Notwithstanding the preceding paragraph, with the approval of the Director of Budget and Management, an unexpended balance of an

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encumbrance that was reappropriated on the first day of July by 86870
this section for a period specified in division (C) or (D) of this 86871
section and that remains encumbered at the close of the fiscal 86872
biennium is hereby reappropriated on the first day of July of the 86873
following fiscal biennium from the fund from which it was 86874
originally appropriated or reappropriated for the applicable 86875
period specified in division (C) or (D) of this section and shall 86876
remain available only for the purpose of discharging the 86877
encumbrance. 86878

The Director of Budget and Management may correct accounting 86879
errors committed by the staff of the Office of Budget and 86880
Management, such as re-establishing encumbrances or appropriations 86881
cancelled in error, during the cancellation of operating 86882
encumbrances in November and of non-operating encumbrances in 86883
December. 86884

If the Controlling Board approved a purchase, that approval 86885
remains in effect so long as the appropriation used to make that 86886
purchase remains encumbered. 86887

Section 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 86888

The maximum amounts that may be assessed against nuclear 86889
electric utilities under division (B)(2) of section 4937.05 of the 86890
Revised Code are as follows: 86891

	FY 2006	FY 2007	
Department of Agriculture			86892
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	86893
Department of Health			86894
Fund 610 Radiation Emergency Response	\$850,000	\$850,000	86895
Environmental Protection Agency			86896
Fund 644 ER Radiological Safety	\$286,114	\$286,114	86897
Emergency Management Agency			86898
Fund 657 Utility Radiological Safety	\$1,260,000	\$1,260,000	86899

Section 312.01. TRANSFERS OF FISCAL YEAR 2005 GENERAL REVENUE 86901
FUND ENDING BALANCES 86902

Notwithstanding divisions (B)(1)(b), (B)(2), and (C) of 86903
section 131.44 of the Revised Code, fiscal year 2005 surplus 86904
revenue shall be distributed as follows: 86905

(A) The first \$60,000,000 of such surplus revenue shall be 86906
transferred to Fund 5AX, Public Assistance Reconciliation Fund, to 86907
pay a portion of the remaining state TANF liability to the federal 86908
government. 86909

(B) The next \$40,000,000 of such surplus revenue shall be 86910
transferred to the Disaster Services Fund (5E2), which is hereby 86911
created in the state treasury. 86912

(C) The next \$100,000,000 of such surplus revenue shall be 86913
transferred to the Budget Stabilization Fund. 86914

(D) The next \$100,000,000 of such surplus revenue shall be 86915
transferred to Fund 021, the Public School Building Fund. 86916

(E) Any surplus revenue in excess of the amounts distributed 86917
under divisions (A) to (D) of this section shall be transferred to 86918
the Budget Stabilization Fund. 86919

Section 312.03. TRANSFERS TO THE GENERAL REVENUE FUND FROM 86920
NON-FEDERAL NON-GRF FUNDS 86921

Notwithstanding any other provision of law to the contrary, 86922
during fiscal years 2006 and 2007, the Director of Budget and 86923
Management is hereby authorized to transfer cash from non-federal, 86924
non-General Revenue Fund funds that are not constitutionally 86925
restricted to the General Revenue Fund. The total amount of cash 86926
transfers made pursuant to this section to the General Revenue 86927
Fund during fiscal years 2006 and 2007 shall not exceed 86928
\$60,000,000. 86929

Section 312.06. TRANSFERS TO THE GENERAL REVENUE FUND OF 86930
INTEREST EARNED 86931

Notwithstanding any provision of Ohio law to the contrary, 86932
the Director of Budget and Management, through June 30, 2007, may 86933
transfer interest earned by any fund in the Central Accounting 86934
System to the General Revenue Fund. This section does not apply to 86935
funds whose source of revenue is restricted or protected by the 86936
Constitution of this state, federal tax law, or the "Cash 86937
Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 86938
U.S.C. 6501, et. seq., as amended. 86939

Section 312.09. BUDGET STABILIZATION FUND TRANSFERS 86940

(A) Notwithstanding any provision of law to the contrary, 86941
through June 30, 2007, if the Director of Budget and Management 86942
determines that the estimated ending fund balance of the General 86943
Revenue Fund will be greater than the amounts assumed in this act 86944
for either fiscal year 2006 or 2007, the Director may transfer up 86945
to the excess balance to the Budget Stabilization Fund. This 86946
division does not apply to division (A) of Section 206.66.21, TANF 86947
TRANSFERS, of this act. 86948

(B) Notwithstanding any provision of law to the contrary, 86949
through June 30, 2007, if the Director of Budget and Management 86950
determines that state revenue receipts and available fund balances 86951
in any fund other than the General Revenue Fund exceed estimated 86952
state expenditures, the Director may transfer up to the excess 86953
revenue to the Budget Stabilization Fund. This division does not 86954
apply to revenue restricted or protected by the Ohio Constitution, 86955
federal tax law or grant requirements, or the "Cash Management 86956
Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501, 86957
et seq., as amended. 86958

(C) In executing division (A) of this section and division 86959

(A) of Section 206.66.21, TANF TRANSFERS, it is intended that these divisions be applied and construed so that both of the transfers authorized under these divisions may be made through June 30, 2007. 86960
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(D) After making the transfers described in divisions (A) and (B) of this section, the Director of Budget and Management shall submit a report to the President of the Senate and the Speaker of the House of Representatives. 86964
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Section 312.10. TAX REFORM SYSTEM IMPLEMENTATION FUND 86968
TRANSFERS TO TAX AMNESTY PROGRAM 86969

Notwithstanding any provision of law to the contrary, prior to June 30, 2006, the Director of Budget and Management shall transfer \$2,000,000 in cash from the Tax Reform System Implementation Fund (Fund 228) to the Tax Amnesty Promotion and Administration Fund (Fund 5BW), which is hereby created in the State Treasury. The funds shall be used to pay expenses incurred in promoting and administering the tax amnesty program run by the Department of Taxation. 86970
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After receiving the revenue receipts from the tax amnesty program, the Director of Budget and Management shall transfer the first \$2,000,000 to the Tax Reform System Implementation Fund, the next \$10,000,000 to the General Revenue Fund, and the remaining excess fund balance to the Budget Stabilization Fund. 86978
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Section 312.12. GRF TRANSFER TO FUND 5N4, OAKS PROJECT 86983
IMPLEMENTATION 86984

On July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer an amount not to exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation. On July 1, 2006, or as soon thereafter as possible, the Director of Budget and Management 86985
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shall transfer an amount not to exceed \$675,000 in cash from the 86990
General Revenue Fund to Fund 5N4, OAKS Project Implementation. 86991

Section 312.15. CORPORATE AND UCC FILING FUND TRANSFER TO GRF 86992

Not later than the first day of June in each year of the 86993
biennium, the Director of Budget and Management shall transfer 86994
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 86995
Fund to the General Revenue Fund. 86996

Section 312.18. GRF TRANSFER TO THE NATIONAL GUARD 86997
SCHOLARSHIP RESERVE FUND 86998

On July 1, 2005, or as soon as possible thereafter, the 86999
Director of Budget and Management shall transfer up to \$592,000 87000
cash from the General Revenue Fund to the National Guard 87001
Scholarship Reserve Fund (Fund 5BM). 87002

Section 312.21. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 87003
RE-ESTABLISHMENT OF ENCUMBRANCES 87004

Any cash transferred by the Director of Budget and Management 87005
under section 126.15 of the Revised Code is hereby appropriated. 87006
Any amounts necessary to re-establish appropriations or 87007
encumbrances under section 126.15 of the Revised Code are hereby 87008
appropriated. 87009

Section 312.22. The Highway Safety Building Fund (Fund 025), 87010
created in section 4501.07 of the Revised Code, is the same fund 87011
as the one referred to in Section 15.01 of Am. Sub. H.B. 16 of the 87012
126th General Assembly. 87013

Section 312.24. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT 87014
AGREEMENT FUND 87015

(A) Notwithstanding section 183.02 of the Revised Code, on 87016

July 1, 2005, or as soon as possible thereafter, the Director of
Budget and Management shall transfer from the Tobacco Master
Settlement Agreement Fund (Fund 087) \$5,000,000 cash to the
General Revenue Fund up to \$5,000,000 cash to the Healthy Ohioans
Initiative Fund (Fund 5BL in the Department of Health), \$6,000,000
cash to the Children's Hospitals Fund (Fund 5CR in the Department
of Job and Family Services), and \$4,000,000 cash to the Adult
Emergency Assistance Fund (Fund 5CS in the Department of Mental
Health). Of the tobacco revenue that is credited to the Tobacco
Master Settlement Agreement Fund (Fund 087) in fiscal year 2005,
the share that is determined pursuant to section 183.02 of the
Revised Code to be the amount transferred by the Director of
Budget and Management from the Tobacco Master Settlement Agreement
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust
Fund (Fund H87) shall be reduced by the amount that is transferred
from the Tobacco Master Settlement Agreement Fund (Fund 087) to
various funds pursuant to this division.

(B) Notwithstanding section 183.02 of the Revised Code, on
July 1, 2006, or as soon as possible thereafter, the Director of
Budget and Management shall transfer from the Tobacco Master
Settlement Agreement Fund (Fund 087) \$6,000,000 cash to the
Children's Hospitals Fund (Fund 5CR in the Department of Job and
Family Services) and \$4,000,000 cash to the Adult Emergency
Assistance Fund (Fund 5CS in the Department of Mental Health). Of
the tobacco revenue that is credited to the Tobacco Master
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the
share that is determined pursuant to section 183.02 of the Revised
Code to be the amount transferred by the Director of Budget and
Management from the Tobacco Master Settlement Agreement Fund (Fund
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund
H87) shall be reduced by the amount that is transferred from the
Tobacco Master Settlement Agreement Fund (Fund 087) to the various

funds pursuant to this division.	87049
Section 315.03. CONSOLIDATION OF REGULATORY BOARDS	87050
(A) It is the intent of the General Assembly to consolidate	87051
the following health-related regulatory boards within the	87052
Department of Health not later than July 1, 2006:	87053
(1) The Chemical Dependency Professionals Board;	87054
(2) The Board of Chiropractic Examiners;	87055
(3) The Counselor, Social Worker, and Marriage and Family	87056
Therapist Board;	87057
(4) The Ohio Board of Dietetics;	87058
(5) The Ohio Occupational Therapy, Physical Therapy, and	87059
Athletic Trainers Board;	87060
(6) The Ohio Optical Dispensers Board;	87061
(7) The State Board of Optometry;	87062
(8) The State Board of Orthotics, Prosthetics, and	87063
Pedorthics;	87064
(9) The State Board of Psychology;	87065
(10) The Ohio Respiratory Care Board;	87066
(11) The Board of Speech-Language Pathology and Audiology;	87067
(12) The State Veterinary Medical Licensing Board.	87068
(B) It is the intent of the General Assembly to consolidate	87069
the following regulatory boards and commissions within the	87070
Department of Commerce not later than July 1, 2006:	87071
(1) The Ohio Athletic Commission;	87072
(2) The Barber Board;	87073
(3) The State Board of Cosmetology;	87074

(4) The Board of Embalmers and Funeral Directors; 87075

(5) The Manufactured Homes Commission; 87076

(6) The Board of Motor Vehicle Collision Repair Registration; 87077

(7) The State Board of Sanitarian Registration. 87078

(C) It is the intent of the General Assembly to consolidate 87079
the Ohio Medical Transportation Board within the Department of 87080
Public Safety not later than July 1, 2006. 87081

(D) The Director of Budget and Management and the Directors 87082
of Administrative Services, Commerce, Health, and Public Safety 87083
shall appoint representatives to a transition team. In addition, 87084
the transition team shall include a total of three members 87085
representing the affected regulatory boards, to be selected by the 87086
executive directors of those boards. 87087

The transition team shall develop a plan to ensure the smooth 87088
and timely consolidation of the boards into the respective 87089
departments. The transition team shall address the details of the 87090
consolidations, identifying necessary statutory changes and 87091
working with the Office of Budget and Management to develop 87092
budgets for the respective departments and the consolidated boards 87093
and commissions. The transition team may recommend additional 87094
regulatory boards or commissions to be consolidated and may 87095
recommend modifications to the planned consolidations. 87096

The transition team shall submit a report containing 87097
recommendations and the details for the consolidations not later 87098
than December 31, 2005, to the Governor, the Speaker of the House 87099
of Representatives, and the President of the Senate. The report 87100
and recommendations shall address the following issues, and may 87101
address additional issues: 87102

(1) The necessary levels of funding; 87103

(2) The savings projected as a result of the consolidations; 87104

(3) The consolidation of activities between each board or commission and the department providing centralized services, including the role of the members of the board or commission and the role of the department;	87105 87106 87107 87108
(4) The staffing levels needed, whether employees must be retained, and whether any employees retained have civil service status;	87109 87110 87111
(5) The continuation of the standards and procedures of the board or commission;	87112 87113
(6) The continuation of rules and whether any rules need to be amended as a result of the consolidations;	87114 87115
(7) The transfer of assets, liabilities, and contractual obligations;	87116 87117
(8) The transfer of records and other materials pertaining to the board or commission.	87118 87119
(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.	87120 87121 87122 87123 87124
Section 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM	87125 87126
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.	87127 87128 87129 87130 87131 87132 87133 87134

All current and pending loans and appropriations, 87135
encumbrances, and funds related to the Career-Technical School 87136
Building Assistance Fund (Fund 020), deemed necessary by the 87137
Commission to implement section 3318.48 of the Revised Code, shall 87138
be transferred to the Commission not later than one hundred twenty 87139
days after the effective date of this section in accordance with 87140
the transition plan. 87141

Any business commenced but not completed by the Department on 87142
the effective date of this section relating to the implementation 87143
of section 3318.48 of the Revised Code and the functions 87144
transferred by this section shall continue to be administered by 87145
the Department for a period of one hundred twenty days after the 87146
effective date of this section or until the transition plan 87147
described in this section is approved by the Commission, whichever 87148
occurs first. The Department shall provide the Commission whatever 87149
administrative assistance the Commission requires during the 87150
period of transition, which assistance shall be specified in the 87151
transition plan described in this section. 87152

Wherever any law, contract, or other document refers to the 87153
Department, the State Board of Education, or the Superintendent of 87154
Public Instruction in regard to the implementation or 87155
administration of section 3318.48 of the Revised Code, the 87156
references shall be deemed to refer to the Commission or the 87157
Director of the Commission. No action or proceeding pending on the 87158
effective date of this section relating to the implementation or 87159
administration of Chapter 3318. of the Revised Code is affected by 87160
the transfer. In all such actions and proceedings, the Commission 87161
or the Director shall be substituted as a party upon application 87162
by the receiving entity to the court or other appropriate 87163
tribunal. 87164

Section 315.09. ELIMINATION OF THE OHIO EDUCATIONAL 87165

TELECOMMUNICATIONS NETWORK COMMISSION 87166

(A) Effective July 1, 2005, the Ohio Educational 87167
Telecommunications Network Commission is abolished and its 87168
functions, assets, and liabilities, including but not limited to 87169
vehicles and equipment assigned to employees of the Commission and 87170
records of the Commission regardless of form or medium, are 87171
transferred to the eTech Ohio Commission. The eTech Ohio 87172
Commission is thereupon and thereafter successor to, assumes the 87173
obligations of, and otherwise constitutes the continuation of the 87174
Ohio Educational Telecommunications Network Commission. The 87175
functions of the Executive Director of the Ohio Educational 87176
Telecommunications Network Commission are thereupon and thereafter 87177
transferred to the Executive Director of the eTech Ohio 87178
Commission. 87179

Any business commenced but not completed by the Ohio 87180
Educational Telecommunications Network Commission or the Executive 87181
Director of the Ohio Educational Telecommunications Network 87182
Commission on July 1, 2005, shall be completed by the eTech Ohio 87183
Commission or the Executive Director of the eTech Ohio Commission, 87184
respectively, in the same manner, and with the same effect, as if 87185
completed by the Ohio Educational Telecommunications Network 87186
Commission or the Executive Director of the Ohio Educational 87187
Telecommunications Network Commission. No validation, cure, right, 87188
privilege, remedy, obligation, or liability is lost or impaired by 87189
reason of the transfer required under this section and shall be 87190
administered by the eTech Ohio Commission. All of the Ohio 87191
Educational Telecommunications Network Commission's rules, orders, 87192
and determinations continue in effect as rules, orders, and 87193
determinations of the eTech Ohio Commission, until modified or 87194
rescinded by the eTech Ohio Commission. If necessary to ensure the 87195
integrity of the Administrative Code, the Director of the 87196
Legislative Service Commission shall renumber the Ohio Educational 87197

Telecommunications Network Commission's rules to reflect their 87198
transfer to the eTech Ohio Commission. 87199

(B) Employees of the Ohio Educational Telecommunications 87200
Network Commission shall be transferred to the eTech Ohio 87201
Commission or dismissed. Employees of the Ohio Educational 87202
Telecommunications Network Commission so dismissed cease to hold 87203
their positions of employment on July 1, 2005. Employees of the 87204
Ohio Educational Telecommunications Network Commission so 87205
transferred shall be removed from any bargaining unit in which 87206
they are included under Chapter 4117. of the Revised Code 87207
effective July 1, 2005. Employees of the Ohio Educational 87208
Telecommunications Network Commission so transferred shall be 87209
removed from any bargaining unit in which they are included under 87210
Chapter 4117. of the Revised Code effective July 1, 2005. 87211

(C) No judicial or administrative action or proceeding in 87212
which the Ohio Educational Telecommunications Network Commission 87213
or the Executive Director of the Commission is a party that is 87214
pending on July 1, 2005, is affected by the transfer of functions 87215
under division (A) of this section. Such action or proceeding 87216
shall be prosecuted or defended in the name of the eTech Ohio 87217
Commission. On application to the court or other tribunal, the 87218
eTech Ohio Commission shall be substituted for the Executive 87219
Director of the Ohio Educational Telecommunications Network or the 87220
Commission as a party to such action or proceeding. 87221

(D) On and after July 1, 2005, when the Ohio Educational 87222
Telecommunications Network Commission or the Executive Director of 87223
the Ohio Educational Telecommunications Network Commission is 87224
referred to in any statute, rule, contract, grant, or other 87225
document, the reference is hereby deemed to refer to the eTech 87226
Ohio Commission or the Executive Director of the eTech Ohio 87227
Commission, respectively. 87228

Section 315.10. ELIMINATION OF THE OHIO SCHOOLNET COMMISSION 87229

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is 87230
abolished and its functions, assets, and liabilities, including, 87231
but not limited to, vehicles and equipment assigned to employees 87232
of the Commission and records of the Commission regardless of form 87233
or medium, are transferred to the eTech Ohio Commission. The eTech 87234
Ohio Commission is thereupon and thereafter successor to, assumes 87235
the obligations of, and otherwise constitutes the continuation of 87236
the Ohio SchoolNet Commission. The functions of the Executive 87237
Director of the Ohio SchoolNet Commission are thereupon and 87238
thereafter transferred to the Executive Director of the eTech Ohio 87239
Commission. 87240

Any business commenced but not completed by the Ohio 87241
SchoolNet Commission or the Executive Director of the Ohio 87242
SchoolNet Commission on July 1, 2005, shall be completed by the 87243
eTech Ohio Commission or the Executive Director of the eTech Ohio 87244
Commission, respectively, in the same manner, and with the same 87245
effect, as if completed by the Ohio SchoolNet Commission or the 87246
Executive Director of the Ohio SchoolNet Commission. No 87247
validation, cure, right, privilege, remedy, obligation, or 87248
liability is lost or impaired by reason of the transfer required 87249
under this section and shall be administered by the eTech Ohio 87250
Commission. All of the Ohio SchoolNet Commission's rules, orders, 87251
and determinations continue in effect as rules, orders, and 87252
determinations of the eTech Ohio Commission, until modified or 87253
rescinded by the eTech Ohio Commission. If necessary to ensure the 87254
integrity of the Administrative Code, the Director of the 87255
Legislative Service Commission shall renumber the Ohio SchoolNet 87256
Commission's rules to reflect their transfer to the eTech Ohio 87257
Commission. 87258

(B) Employees of the Ohio SchoolNet Commission shall be 87259

transferred to the eTech Ohio Commission or dismissed. Employees 87260
of the Ohio SchoolNet Commission so dismissed cease to hold their 87261
positions of employment on July 1, 2005. 87262

(C) No judicial or administrative action or proceeding in 87263
which the Ohio SchoolNet Commission or the Executive Director of 87264
the Commission is a party that is pending on July 1, 2005, is 87265
affected by the transfer of functions under division (A) of this 87266
section. Such action or proceeding shall be prosecuted or defended 87267
in the eTech Ohio Commission. On application to the court or other 87268
tribunal, the eTech Ohio Commission shall be substituted for the 87269
Executive Director of the Ohio SchoolNet Commission as a party to 87270
such action or proceeding. 87271

(D) On and after July 1, 2005, when the Ohio SchoolNet 87272
Commission or the Executive Director of the Ohio SchoolNet 87273
Commission is referred to in any statute, rule, contract, grant, 87274
or other document, the reference is hereby deemed to refer to the 87275
eTech Ohio Commission or the Executive Director of the eTech Ohio 87276
Commission, respectively. 87277

(E) If the Department of Education receives any expenditure 87278
and program reports for fiscal year 2005 for programs that were 87279
administered by the Ohio SchoolNet Commission during that fiscal 87280
year, the Department shall forward those reports to the eTech Ohio 87281
Commission by September 30, 2005. 87282

Section 315.11. TRANSFER OF FUNDS TO THE AGENCIES 87283

On and after July 1, 2005, notwithstanding any provision of 87284
law to the contrary, the Director of Budget and Management is 87285
authorized to take the actions described in this section with 87286
respect to budget changes made necessary by administrative 87287
reorganization, program transfers, the creation of new funds, and 87288
the consolidation of funds as authorized by this act. The Director 87289

may make any transfer of cash balances between funds. At the 87290
request of the Director, the Ohio Educational Telecommunications 87291
Network Commission and the Ohio SchoolNet Commission shall certify 87292
to the Director an estimate of the amount of the cash balance to 87293
be transferred to the receiving funds. The Director may transfer 87294
the estimated amount when needed to make payments. Not more than 87295
thirty days after certifying the estimated amount, the Commissions 87296
shall certify the final amount to the Director. The Director shall 87297
transfer the difference between any amount previously transferred 87298
and the certified final amount. The Director may cancel 87299
encumbrances and re-establish encumbrances or parts of 87300
encumbrances as needed in fiscal year 2006 in the appropriate 87301
funds and appropriation items for the same purposes. The 87302
appropriation authority necessary to re-establish such 87303
encumbrances in fiscal year 2006 as determined by the Director, in 87304
a different fund or appropriation item, within an agency or 87305
between agencies, is hereby appropriated. When re-established 87306
encumbrances or parts of re-established encumbrances are 87307
cancelled, the Director shall reduce the appropriations for these 87308
respective funds and appropriation items by the amount of the 87309
encumbrances cancelled. The amounts cancelled are hereby 87310
authorized. Any fiscal year 2005 unencumbered or unallotted 87311
appropriation balances may be transferred to the appropriate funds 87312
and appropriation items to be used for the same purposes, as 87313
determined by the Director. The amounts transferred are hereby 87314
appropriated. 87315

Section 316.03. (A) Not later than July 1, 2005, the Governor 87316
shall appoint members to the eTech Ohio Commission and shall 87317
appoint a chairperson of the Commission as required by section 87318
3353.02 of the Revised Code, as enacted by this act. 87319
Notwithstanding division (F) of that section, the initial 87320
chairperson appointed by the Governor shall serve until July 1, 87321

2006, at which time the Governor shall appoint a chairperson in 87322
accordance with that section. 87323

(B) Notwithstanding section 3353.03 of the Revised Code, as 87324
enacted by this act, the Governor shall appoint an interim 87325
executive director of the Commission not later than July 1, 2005. 87326
The interim executive director shall serve for one year or until 87327
the Commission appoints an executive director pursuant to that 87328
section, whichever is earlier. The Governor shall fix the 87329
compensation of the interim executive director. The interim 87330
executive director shall exercise any authority provided by law to 87331
the executive director of the Commission or delegated to the 87332
interim executive director by the Commission. 87333

Section 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 87334

Certain appropriations are in this act for the purpose of 87335
paying debt service and financing costs on general obligation 87336
bonds or notes of the state issued pursuant to the Ohio 87337
Constitution and acts of the General Assembly. If it is determined 87338
that additional appropriations are necessary for this purpose, 87339
such amounts are hereby appropriated. 87340

Section 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF 87341
STATE 87342

Certain appropriations are in this act for the purpose of 87343
making lease payments pursuant to leases and agreements relating 87344
to bonds or notes issued by the Ohio Building Authority or the 87345
Treasurer of State or, previously, by the Ohio Public Facilities 87346
Commission, pursuant to the Ohio Constitution and acts of the 87347
General Assembly. If it is determined that additional 87348
appropriations are necessary for this purpose, such amounts are 87349
hereby appropriated. 87350

Section 318.09. AUTHORIZATION FOR TREASURER OF STATE AND OBM 87351
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 87352

The Office of Budget and Management shall initiate and 87353
process disbursements from general obligation and lease rental 87354
payment appropriation items during the period from July 1, 2005, 87355
to June 30, 2007, relating to bonds or notes issued under Sections 87356
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 87357
and Chapters 151. and 154. of the Revised Code. Disbursements 87358
shall be made upon certification by the Treasurer of State of the 87359
dates and the amounts due on those dates. 87360

Section 318.12. ISSUANCE OF OBLIGATIONS BY THE OHIO COAL 87361
DEVELOPMENT OFFICE 87362

The Ohio Public Facilities Commission, upon the request of 87363
the Director of the Ohio Coal Development Office of the Ohio Air 87364
Quality Development Authority with the advice of the Technical 87365
Advisory Committee created in section 1551.35 of the Revised Code 87366
and the approval of the Executive Director of the Ohio Air Quality 87367
Development Authority, is hereby authorized to issue and sell, in 87368
accordance with Section 15 of Article VIII, Ohio Constitution, and 87369
Chapter 151. and particularly sections 151.01 and 151.07 of the 87370
Revised Code, bonds and other obligations of the State of Ohio in 87371
an aggregate principal amount not to exceed \$15,000,000 in 87372
addition to the issuance of obligations heretofore authorized by 87373
prior acts of the General Assembly. The obligations shall be 87374
dated, issued, and sold from time to time in such amounts as may 87375
be necessary to provide sufficient moneys to the credit of the 87376
Coal Research and Development Fund created in section 1555.15 of 87377
the Revised Code to pay costs charged to the fund when due. 87378

Section 321.03. STATE AND LOCAL REBATE AUTHORIZATION 87379

There is hereby appropriated, from those funds designated by 87380
or pursuant to the applicable proceedings authorizing the issuance 87381
of state obligations, amounts computed at the time to represent 87382
the portion of investment income to be rebated or amounts in lieu 87383
of or in addition to any rebate amount to be paid to the federal 87384
government in order to maintain the exclusion from gross income 87385
for federal income tax purposes of interest on those state 87386
obligations under section 148(f) of the Internal Revenue Code. 87387

Rebate payments shall be approved and vouchered by the Office 87388
of Budget and Management. 87389

Section 321.06. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 87390

Pursuant to the plan for compliance with the Federal Cash 87391
Management Improvement Act required by section 131.36 of the 87392
Revised Code, the Director of Budget and Management may cancel and 87393
re-establish all or part of encumbrances in like amounts within 87394
the funds identified by the plan. The amounts necessary to 87395
re-establish all or part of encumbrances are hereby appropriated. 87396

Section 321.09. STATEWIDE INDIRECT COST RECOVERY 87397

Whenever the Director of Budget and Management determines 87398
that an appropriation made to a state agency from a fund of the 87399
state is insufficient to provide for the recovery of statewide 87400
indirect costs under section 126.12 of the Revised Code, the 87401
amount required for such purpose is hereby appropriated from the 87402
available receipts of such fund. 87403

Section 321.10. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 87404
INDIRECT COST ALLOCATION PLAN 87405

The total transfers made from the General Revenue Fund by the 87406
Director of Budget and Management under this section shall not 87407
exceed the amounts transferred into the General Revenue Fund under 87408

division (B) of section 126.12 of the Revised Code. 87409

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 126.12 of the Revised Code. 87410
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Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared under section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required. 87416
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Section 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 87425

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the director considers necessary to retain their own interest earnings. 87426
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Section 401.05. That Sections 16.09, 19.01, 20.01, 22.03, 22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly be amended to read as follows: 87433
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Sec. 16.09. OSB SCHOOL FOR THE BLIND			87437
CAP-774	Glass Windows/E Wall of Natatorium	\$ 63,726	87438
CAP-775	Renovation of Science Lab Greenhouse	\$ 58,850	87439
CAP-776	Renovating Recreation Area	\$ 213,900	87440
CAP-777	New Classrooms for Secondary MH Program	\$ 880,407	87441
CAP-778	Renovation of Student Health Service Area	\$ 144,375	87442
CAP-779	Replacement of Cottage Windows	\$ 208,725	87443
CAP- 780	New School Lighting	\$ 184,500	87444
<u>782</u>			
CAP-781	Food Prep. Area Air Conditioning	\$ 67,250	87445
Total School for the Blind		\$ 1,821,733	87446

Sec. 19.01. All items set forth in this section are hereby 87447
 appropriated out of any moneys in the state treasury to the credit 87448
 of the Cultural and Sports Facilities Building Fund (Fund 030) 87449
 that are not otherwise appropriated. 87450

Appropriations

AFC CULTURAL FACILITIES COMMISSION			87451
CAP-010	Sandusky State Theatre Improvements	\$ 325,000	87452
CAP-013	Stambaugh Hall Improvements	\$ 250,000	87453
CAP-033	Woodward Opera House Renovation	\$ 100,000	87454
CAP-038	Center Exhibit Replacement	\$ 816,000	87455
CAP-043	Statewide Site Repairs	\$ 100,000	87456
CAP-044	National Underground Railroad Freedom Center	\$ 4,150,000	87457
CAP-046	Cincinnati Museum Center Improvements	\$ 250,000	87458
CAP-052	Akron Art Museum	\$ 1,012,500	87459
CAP-053	Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion	\$ 250,000	87460
CAP-065	Beck Center for the Cultural Arts	\$ 100,000	87461
CAP-069	Cleveland Institute of Art	\$ 250,000	87462
CAP-071	Cleveland Institute of Music	\$ 750,000	87463

CAP-073	Marina District/Ice Arena Development	\$	3,500,000	87464
CAP-074	Stan Hywet Hall & Gardens - West Vista Restoration	\$	750,000	87465
CAP-745	Emergency Repairs	\$	838,560	87466
CAP-769	Rankin House State Memorial	\$	192,000	87467
CAP-781	Archives and Library Automation	\$	624,000	87468
CAP-784	Center Rehabilitation	\$	960,000	87469
CAP-806	Grant Boyhood Home Improvements	\$	480,000	87470
CAP-812	Schuster Arts Center	\$	5,500,000	87471
CAP-823	Marion Palace Theatre	\$	750,000	87472
CAP-826	Renaissance Theatre	\$	750,000	87473
CAP-834	Galion Historic Big Four Depot Restoration	\$	170,000	87474
CAP-835	Jamestown Opera House	\$	125,000	87475
CAP-844	Charles A. Eulett Education Center/Edge of Appalachia Museum Center	\$	1,850,000	87476
CAP-845	Lima Historic Athletic Field	\$	100,000	87477
CAP-846	Butler Palace Theatre	\$	100,000 <u>200,000</u>	87478
CAP-847	Voice of America Museum	\$	275,000	87479
CAP-848	Oxford Arts Center ADA Project	\$	72,000	87480
CAP-849	Clark County Community Arts Expansion Project	\$	500,000	87481
CAP-850	Westcott House Historic Site	\$	75,000	87482
CAP-851	General Lytle Homestead - Harmony Hill	\$	50,000	87483
CAP-852	Miami Township Community Amphitheatre	\$	50,000	87484
CAP-853	Western Reserve Historical Society	\$	1,000,000	87485
CAP-854	Steamship Mather Museum	\$	100,000	87486
CAP-855	Rock and Roll Hall of Fame	\$	250,000	87487
CAP-856	Friendly Inn Settlement House Historic Site	\$	250,000	87488
CAP-857	Merrick House Historic Site	\$	250,000	87489
CAP-858	Strongsville Historic Building	\$	100,000	87490

CAP-859	Arts Castle	\$	100,000	87491
CAP-860	Great Lakes Historical Society	\$	325,000	87492
CAP-861	Ohio Glass Museum	\$	250,000	87493
CAP-862	Goll Wood Homestead	\$	50,000	87494
CAP-863	Ariel Theatre	\$	100,000	87495
CAP-864	Bellbrook/Sugarcreek Historical Society	\$	10,000	87496
CAP-865	Kennedy Stone House	\$	15,000	87497
CAP-866	Sports Facilities Improvements - Cincinnati	\$	4,350,000	87498
CAP-867	Ensemble Theatre	\$	450,000	87499
CAP-868	Taft Museum	\$	500,000	87500
CAP-869	Art Academy of Cincinnati	\$	100,000	87501
CAP-870	Riverbend Pavilion Improvements	\$	250,000	87502
CAP-871	Cincinnati Art & Technology Academy - Longworth Hall	\$	100,000	87503
CAP-872	Music Hall: Over-The-Rhine	\$	750,000	87504
CAP-873	John Bloomfield Home Restoration	\$	115,000	87505
CAP-874	Malinta Historical Society Caboose Exhibit	\$	6,000	87506
CAP-875	Hocking County Historical Society - Schempp House	\$	10,000	87507
CAP-876	Art Deco Markay Theater	\$	200,000	87508
CAP-877	Harvey Wells House	\$	100,000	87509
CAP-878	Bryn Du	\$	250,000	87510
CAP-879	Broad Street Historical Renovation	\$	300,000	87511
CAP-880	Amherst Historical Society	\$	35,000	87512
CAP-881	COSI - Toledo	\$	1,900,000	87513
CAP-882	Ohio Theatre - Toledo	\$	100,000	87514
CAP-883	Chester Academy Historic Site Renovations	\$	25,000	87515
CAP-884	Bradford Ohio Railroad Museum	\$	100,000	87516
CAP-885	Montgomery County Historical Society Archives	\$	100,000	87517
CAP-886	Nelson T. Gant Historic Homestead	\$	25,000	87518

CAP-887	Aurora Outdoor Sports Complex	\$	50,000	87519
CAP-888	Preble County Historical Society	\$	100,000	87520
CAP-889	Tecumseh Sugarloaf Mountain Amphitheatre	\$	120,000	87521
CAP-890	Pro Football Hall of Fame	\$	400,000	87522
CAP-891	MAPS Air Museum	\$	15,000	87523
CAP-892	Foundation Community Theatre <u>Theatre</u>	\$	50,000	87524
CAP-893	William McKinley Library Restoration	\$	250,000	87525
CAP-894	Hale Farm & Village	\$	250,000	87526
CAP-895	Blossom Music Center	\$	2,512,500	87527
CAP-896	Richard Howe House	\$	100,000	87528
CAP-897	Ward-Thomas Museum	\$	30,000	87529
CAP-898	Packard Music Hall Renovation Project	\$	100,000	87530
CAP-899	Holland Theatre	\$	100,000	87531
CAP-900	Van Wert Historical Society	\$	32,000	87532
CAP-901	Warren County Historical Society	\$	225,000	87533
CAP-902	Marietta Colony Theatre	\$	335,000	87534
CAP-903	West Salem Village Opera House	\$	92,000	87535
CAP-904	Beavercreek Community Theater	\$	100,000	87536
CAP-905	Smith Orr Homestead	\$	100,000	87537
Total Cultural Facilities Commission		\$	43,592,560	87538
			<u>41,165,060</u>	
TOTAL Cultural and Sports Facilities Building Fund		\$	43,592,560	87539
			<u>41,165,060</u>	

Sec. 20.01. All items set forth in this section are hereby 87541
 appropriated out of any moneys in the state treasury to the credit 87542
 of the Ohio Parks and Natural Resources Fund (Fund 031) that are 87543
 not otherwise appropriated. 87544

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES				87545
STATEWIDE AND LOCAL PROJECTS				87546
CAP-012	Land Acquisition	\$	750,000	87547
CAP-051	Buck Creek State Park - Camp/Dock	\$	25,000	87548

	Renovations			
CAP-060	East Fork State Park Renovation	\$	50,000	87549
<u>CAP-068</u>	<u>Kennedy Stone House</u>	<u>\$</u>	<u>15,000</u>	87550
CAP-080	Atwood Lake Conservancy District	\$	75,000	87551
CAP-083	John Bryan State Park Shelter	\$	30,000	87552
	Construction			
CAP-084	Findley State Park General Improvements	\$	12,500	87553
CAP-085	The Wilds Carnivore Center	\$	1,000,000	87554
CAP-086	Scippo Creek Conservation	\$	75,000	87555
CAP-087	Belpre City Swimming Pool	\$	125,000	87556
CAP-705	Ohio-Erie Canal Tuscarawas River Logjam	\$	25,000	87557
	Removal			
CAP-748	Local Parks Projects - Statewide	\$	2,511,079	87558
CAP-753	Project Planning	\$	1,144,316	87559
CAP-881	Dam Rehabilitation	\$	5,000,000	87560
CAP-931	Wastewater/Water Systems Upgrades	\$	2,900,000	87561
	Total Statewide and Local Projects	\$	13,722,895	87562
			<u>12,737,895</u>	87563
	Total Department of Natural Resources	\$	13,722,895	87564
			<u>12,737,895</u>	87565
	TOTAL Ohio Parks and Natural Resources Fund	\$	13,722,895	87566
			<u>12,737,895</u>	87567
			Appropriations	
	Sec. 22.03. DMH DEPARTMENT OF MENTAL HEALTH			87569
CAP-479	Community Assistance Projects	\$	1,800,000	87570
			<u>1,900,000</u>	
CAP-978	Infrastructure Improvements	\$	8,050,000	87571
CAP-989	Cleveland Christian Home	\$	100,000	87572
	Total Department of Mental Health	\$	9,950,000	87573
	COMMUNITY ASSISTANCE PROJECTS			87574
	Of the foregoing appropriation item CAP-479, Community			87575

Assistance Projects, \$200,000 shall be used for the Center for 87576
 Families and Children, \$100,000 shall be used for the Cleveland 87577
Christian Home, and \$100,000 shall be used for the Berea 87578
 Children's Home. 87579

Appropriations

Sec. 22.04. DMR DEPARTMENT OF MENTAL RETARDATION AND 87580
 DEVELOPMENTAL DISABILITIES 87581

STATEWIDE AND CENTRAL OFFICE PROJECTS 87582

CAP-480	Community Assistance Projects	\$	9,475,000	87583
CAP-955	Statewide Development Centers	\$	3,257,257	87584
Total Statewide and Central Office Projects		\$	12,732,257	87585
TOTAL Department of Mental Retardation and		\$	12,732,257	87586
Developmental Disabilities				
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND		\$	22,782,257	87587

COMMUNITY ASSISTANCE PROJECTS 87588

The foregoing appropriation item CAP-480, Community 87589
 Assistance Projects, may be used to provide community assistance 87590
 funds for the development, purchase, construction, or renovation 87591
 of facilities for day programs or residential programs that 87592
 provide services to persons eligible for services from the 87593
 Department of Mental Retardation and Developmental Disabilities or 87594
 county boards of mental retardation and developmental 87595
 disabilities. Any funds provided to nonprofit agencies for the 87596
 construction or renovation of facilities for persons eligible for 87597
 services from the Department of Mental Retardation and 87598
 Developmental Disabilities and county boards of mental retardation 87599
 and developmental disabilities shall be governed by the prevailing 87600
 wage provisions in section 176.05 of the Revised Code. 87601

Of the foregoing appropriation item CAP-480, \$200,000 shall 87602
 be used for the Achievement Centers for Children and \$250,000 87603
 shall be used for Bellefaire Jewish Children's Bureau and 87604

Notwithstanding any other provision of law to the contrary, 87605
of the foregoing appropriation item CAP-480, \$250,000 shall be 87606
 used for the Julie Billart facility and \$75,000 shall be used for 87607
 the Hanson Home. 87608

Appropriations

Sec. 23.02. ~~OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK~~ 87609
~~COMMISSION ETC ETECH OHIO~~ 87610
 CAP-001 Educational TV and Radio Equipment \$ 1,027,038 87611
 Total ~~Ohio Educational Telecommunications Network~~ \$ 1,027,038 87612
~~Commission eTech Ohio~~

Appropriations

Sec. 23.12. CLS CLEVELAND STATE UNIVERSITY 87614
 CAP-023 Basic Renovations \$ 3,267,875 87615
 CAP-125 College of Education Building \$ 8,057,262 87616
~~CAP-130 WVIZ Technology Center/Playhouse Square~~ \$ ~~750,000~~ 87617
 CAP-152 Rhodes Tower-Data Center Relocation \$ 1,000,000 87618
 CAP-153 University Annex-Vacation and Demolition \$ 49,390 87619
 CAP-154 Main Classroom Stair Tower & Entry \$ 1,500,000 87620
 CAP-155 Cleveland Playhouse \$ 250,000 87621
 CAP-156 Physical Education Building \$ 1,000,000 87622
 Rehabilitation
 Total Cleveland State University \$ ~~15,874,527~~ 87623
15,124,527

Appropriations

Sec. 23.13. KSU KENT STATE UNIVERSITY 87625
 CAP-022 Basic Renovations \$ 3,573,078 87626
 CAP-105 Basic Renovations-East Liverpool \$ 151,408 87627
 CAP-106 Basic Renovations-Geauga \$ 45,607 87628
 CAP-107 Basic Renovations-Salem \$ 105,640 87629
 CAP-108 Basic Renovations-Stark \$ 325,358 87630

CAP-110	Basic Renovations-Ashtabula	\$	177,801	87631
CAP-111	Basic Renovations-Trumbull	\$	347,695	87632
CAP-112	Basic Renovations-Tuscarawas	\$	171,699	87633
CAP-212	Health Science Building, Planning	\$	705,720	87634
CAP-235	Rehabilitation of Franklin Hall	\$	13,923,684	87635
CAP-260	Land Acquisitions & Improvements-East Liverpool	\$	638,419	87636
CAP-261	Addition/Renovation of Classrooms-Geauga	\$	246,878	87637
CAP-262	Gym Renovation Planning-Salem	\$	490,213	87638
CAP-263	Parking Lot & Roadway Paving-Stark	\$	162,076	87639
CAP-264	Fine Arts Building & New Campus Center-Stark	\$	1,000,000	87640
CAP-265	Science Lab Addition-Trumbull	\$	991,786	87641
CAP-266	Fine & Performing Arts Center - Tuscarawas	\$	844,655	87642
CAP-267	Columbiana County Port Authority	\$	875,000	87643
CAP-268	Canton Convention Center	\$	735,000	87644
<u>CAP-269</u>	<u>Blossom Music Center</u>	<u>\$</u>	<u>2,512,500</u>	87645
Total Kent State University		\$	25,511,717	87646
			<u>28,024,217</u>	

Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE 87648

Appropriations

CAP-031	Basic Renovations	\$	2,428,960	87649
CAP-079	Cleveland Art Museum Improvements	\$	3,000,000	87650
CAP-094	Collegewide Wayfinding Signage System	\$	1,067,510	87651
CAP-095	Collegewide Asset Protection and Building Codes Upgrade	\$	1,491,522	87652
CAP-096	Health Care Technology Building - Eastern	\$	6,050,264	87653
<u>CAP-097</u>	<u>WVIZ Technology Center/Playhouse Square</u>	<u>\$</u>	<u>750,000</u>	87654
Total Cuyahoga Community College		\$	14,038,256	87655
			<u>14,788,256</u>	

Sec. 23.45. STC STARK TECHNICAL COLLEGE			87656
CAP-004	Basic Renovations	\$ 438,295	87657
CAP-035	Business Technologies Addition Rehabilitation	\$ 1,378,892	87658
CAP-037	Fuel Cell Initiative	\$ 250,000	87659
Total Stark Technical College			\$ 2,067,187 87660
Total Board of Regents and State Institutions of Higher Education			87661
			\$ 488,343,998 87662
			<u>490,956,498</u>
TOTAL Higher Education Improvement Fund			\$ 489,371,036 87663
			<u>491,883,536</u>

Sec. 24.01. All items set forth in this section are hereby 87665
 appropriated out of any moneys in the state treasury to the credit 87666
 of the Parks and Recreation Improvement Fund (Fund 035) that are 87667
 not otherwise appropriated. 87668

			Appropriations
DNR DEPARTMENT OF NATURAL RESOURCES			87669
CAP-004	Burr Oak Lodge	\$ 150,000	87670
CAP-012	Land Acquisition	\$ 243,663	87671
<u>CAP-085</u>	<u>The Wilds Carnivore Center</u>	<u>\$ 1,000,000</u>	87672
CAP-088	Muskingum River Lock and Dam	\$ 250,000	87673
<u>CAP-716</u>			87674
CAP-234	State Park Campgrounds, Cabins, and Lodges	\$ 2,712,500	87675
CAP-331	Park Boating Facilities	\$ 7,588,383	87676
CAP-701	Buckeye Lake State Park - Dam Rehabilitation	\$ 4,000,000	87677
CAP-718	Grand Lake St. Mary's State Park Erosion Control Project	\$ 450,000	87678
CAP-748	Local Park Projects	\$ 2,715,000	87679
CAP-753	Project Planning	\$ 175,000	87680

CAP-848	Hazardous Dam Repair - Statewide	\$	1,325,000	87681
CAP-876	Statewide Trails	\$	1,101,500	87682
			<u>1,851,500</u>	
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$	2,500,000	87683
Total Department of Natural Resources		\$	23,211,046	87684
			<u>24,961,046</u>	87685
TOTAL Parks and Recreation Improvement Fund		\$	23,211,046	87686
			<u>24,961,046</u>	87687
FEDERAL REIMBURSEMENT				87688
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).				87689 87690 87691 87692
LOCAL PARKS PROJECTS				87693
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; \$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				87694 87695 87696 87697 87698 87699 87700 87701 87702 87703 87704 87705 87706 87707 87708 87709 87710

be used for the City of London Sports Park; \$25,000 shall be used 87711
for the Pleasant Hill Park Ball Field Project; and \$250,000 shall 87712
be used for the Education Gateway at Sippo Lake Park. 87713

STATEWIDE TRAILS PROGRAM 87714

Of the foregoing appropriation item CAP-876, Statewide 87715
Trails, \$85,000 shall be used for the Williamsburg-Batavia 87716
hike/bike trail; \$16,500 shall be used for the South Milford Road 87717
Bike Trail Project; \$125,000 shall be used for the Tri-County 87718
Triangle Trail in Fayette county; ~~\$100,00~~ \$100,000 shall be used 87719
for the Tri-County Triangle Trail in Highland County; \$125,000 87720
shall be used for the Tri-County Triangle Trail in Ross county; 87721
\$550,000 shall be used for the Camp Chase Ohio to Erie Trail; ~~and~~ 87722
\$100,000 shall be used for the Holmes County Park District - Rails 87723
to Trails; and \$750,000 shall be used for the Little Miami Trail 87724
through the Village of Terrace Park. The state funds for the 87725
Little Miami Trail Project shall be used to undertake project work 87726
that is eligible for reimbursement under the federal Land and 87727
Water Conservation Fund and the Recreational Trails Program. The 87728
federal reimbursement funds for the project work shall be credited 87729
to the Parks and Recreation Improvement Fund (Fund 035). 87730

Section 401.06. That existing Sections 16.09, 19.01, 20.01, 87731
22.03, 22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. 87732
Sub. H.B. 16 of the 126th General Assembly are hereby repealed. 87733

Section 401.11. That Sections 203.03.09, 203.03.10, and 87734
203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly be 87735
amended to read as follows: 87736

Sec. 203.03.09. PUBLIC ACCESS ROADS FOR STATE FACILITIES 87737

Of the foregoing appropriation item 772-421, Highway 87738
Construction - State, ~~\$4,517,500~~ \$5,000,000 shall be used in each 87739

fiscal year during the fiscal year 2006-2007 biennium by the 87740
Department of Transportation for the construction, reconstruction, 87741
or maintenance of public access roads, including support features, 87742
to and within state facilities owned or operated by the Department 87743
of Natural Resources, ~~as requested by the Director of Natural~~ 87744
~~Resources.~~ 87745

Notwithstanding section 5511.06 of the Revised Code, of the 87746
foregoing appropriation item 772-421, Highway Construction - 87747
State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 87748
biennium shall be used by the Department of Transportation for the 87749
construction, reconstruction, or maintenance of park drives or 87750
park roads within the boundaries of metropolitan parks. 87751

Included in the foregoing appropriation item 772-421, Highway 87752
Construction - State, the department may perform related road work 87753
on behalf of the Ohio Expositions Commission at the state 87754
fairgrounds, including reconstruction or maintenance of public 87755
access roads and support features, to and within fairground 87756
facilities as requested by the commission and approved by the 87757
Director of Transportation. 87758

LIQUIDATION OF UNFORESEEN LIABILITIES 87759

Any appropriation made to the Department of Transportation, 87760
Highway Operating Fund, not otherwise restricted by law, is 87761
available to liquidate unforeseen liabilities arising from 87762
contractual agreements of prior years when the prior year 87763
encumbrance is insufficient. 87764

Sec. 203.03.10. PREVENTIVE MAINTENANCE 87765

The Department of Transportation shall contract with an 87766
independent party to ~~issue a yearly report~~ conduct a study and 87767
issue a report on the effectiveness and progress of preventive 87768
maintenance projects ~~that meet warranty guidelines.~~ The 87769

~~Thereafter, the~~ Department shall issue a yearly report on or 87770
before the first day of December for three consecutive years 87771
~~beginning in fiscal year 2005.~~ 87772

~~The Department shall provide in its annual report data on~~ 87773
actual and planned pavement preventive maintenance activities. The 87774
data shall include the following: (1) the total number of lane 87775
miles receiving preventive maintenance treatment, by treatment 87776
type and highway system category; (2) the total number of lane 87777
miles programmed to receive treatment; (3) the actual costs of the 87778
pavement preventive maintenance activities per lane mile, by 87779
treatment type and highway system category; (4) the total number 87780
of lane miles rehabilitated or reconstructed; and (5) the actual 87781
cost per lane mile of rehabilitated or reconstructed highway, by 87782
highway system category. 87783

Sec. 203.06.15. EMERGENCY MANAGEMENT 87784

Federal Special Revenue Fund Group 87785

3N5	763-644	U.S. DOE Agreement	\$	275,000	\$	275,000	87786
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329	763-645	Federal Mitigation	\$	303,504	\$	303,504	87787
		Program					

337	763-609	Federal Disaster	\$	27,269,140	\$	27,280,000	87788
		Relief					

339	763-647	Emergency Management	\$	129,622,000	\$	129,622,000	87789
		Assistance and					
		Training					

TOTAL FED Federal Special 87790

Revenue Fund Group	\$	157,469,644	\$	157,480,504	87791
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State Special Revenue Fund Group 87792

4V3	763-662	EMA Service and	\$	696,446	\$	696,446	87793
		Reimbursement					

657	763-652	Utility Radiological	\$	1,260,000	\$	1,260,000	87794
		Safety					

681	763-653	SARA Title III HAZMAT	\$	271,510	\$	271,510	87795
		Planning					
		TOTAL SSR State Special Revenue					87796
		Fund Group	\$	2,227,956	\$	2,227,956	87797
		TOTAL ALL BUDGET FUND GROUPS -					87798
		Emergency Management	\$	159,697,600	\$	159,708,460	87799
		FEDERAL MITIGATION PROGRAM					87800
		The fund created by the Controlling Board known as the					87801
		Disaster Relief Services Plan and Grant Administration Fund is now					87802
		the Federal Mitigation Program Fund, and shall be used to plan and					87803
		mitigate against future disaster costs.					87804
		<u>The appropriation item 763-645, heretofore known as</u>					87805
		<u>Individual/Family Grant - Fed, is hereafter known as Federal</u>					87806
		<u>Mitigation Program, and shall be used to plan and mitigate against</u>					87807
		<u>future disaster costs.</u>					87808
		STATE DISASTER RELIEF					87809
		The appropriation item 763-601, State Disaster Relief, may					87810
		accept transfers of cash and appropriations from Controlling Board					87811
		appropriation items to reimburse eligible local governments and					87812
		private nonprofit organizations for costs related to disasters					87813
		that have been declared by local governments or the Governor. The					87814
		Ohio Emergency Management Agency shall publish and make available					87815
		an application packet outlining eligible items and application					87816
		procedures for entities requesting state disaster relief.					87817
		Individuals may be eligible for reimbursement of costs					87818
		related to disasters that have been declared by the Governor and					87819
		the Small Business Administration. The funding in appropriation					87820
		item 763-601, State Disaster Relief, shall be used in accordance					87821
		with the principles of the federal Individual and Family Grant					87822
		Program, which provides grants to households that have been					87823
		affected by a disaster to replace basic living items. The Ohio					87824

Emergency Management Agency shall publish and make available an application procedure for individuals requesting assistance under the state Individual Assistance Program.

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 681) is entitled to receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

Section 401.12. That existing Sections 203.03.09, 203.03.10, and 203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly are hereby repealed.

Section 401.13. Notwithstanding section 5511.05 of the Revised Code, the Director of Transportation shall confer with the Director of Natural Resources in fiscal years 2006 and 2007 concerning the establishment, construction, reconstruction, improvement, repair, and maintenance of all roads and bridges within the boundaries of all state parks, including all such parks and properties under the control and custody of the Department of Natural Resources. After conferring with the Director of Natural Resources, the Director of Transportation shall establish, construct, reconstruct, improve, repair, and maintain all such roads and bridges. \$5,000,000 shall be expended to establish, construct, reconstruct, improve, repair, and maintain all such roads and bridges in each fiscal year.

Section 403.01. That Section 14 of Sub. H.B. 434 of the 125th General Assembly be amended to read as follows:

Sec. 14. ~~NET SCHOOLNET COMMISSION~~ ETC ETECH OHIO

Tobacco Master Settlement Agreement Fund Group

S87 228	Education Technology	\$	9,277,865	\$	6,274,109	87853
	<u>935-602</u> Trust Fund					
TOTAL TSF Tobacco Master						87854
Settlement Agreement Fund						87855
Group		\$	9,277,865	\$	6,274,109	87856
TOTAL ALL BUDGET FUND GROUPS		\$	9,277,865	\$	6,274,109	87857

SCHOOLNET PLUS 87858

~~The Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2005 to establish and equip at least one interactive computer workstation for each five students enrolled in the seventh grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.~~ 87859
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Upon completion of the SchoolNet Plus Grant Program for the seventh grade, ~~the Ohio SchoolNet Commission~~ eTech Ohio shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2006 to establish and equip at least one interactive computer workstation for each five children enrolled in the eighth grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code. 87865
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Districts in the first two quartiles of wealth shall receive up to \$275 per pupil for students in the targeted grade to purchase classroom computers. Districts in the third and fourth quartiles shall receive up to \$105 per pupil in the targeted grade. If a district has met the state's goal of one computer to every five students in the targeted grade, the district may use the funds provided through SchoolNet Plus to purchase computers for successive grades or to fulfill educational technology needs in other grades as specified in the district's technology plan. 87872
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Section 403.02. That existing Section 14 of Sub. H.B. 434 of the 125th General Assembly is hereby repealed. 87881
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Section 403.05. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly be amended to read as follows:

Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

	REVISED CODE	
	OR	
	UNCODIFIED	
AGENCY NAME	SECTION	
Administrator, Interstate Compact on Mental Health	5119.50	
Administrator, Interstate Compact on Placement of Children	5103.20	
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	
Advisory Boards to the EPA for Air Pollution	121.13	
Advisory Boards to the EPA for Water Pollution	121.13	
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)	
Advisory Committee on Livestock Exhibitions	901.71	
Advisory Council on Amusement Ride Safety	1711.51	
Advisory Board of Directors for Prison Labor	5145.162	
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18	
Advisory Councils or Boards for State Departments	107.18 or 121.13	
Advisory Group to the Ohio Water Resources Council	1521.19(C)	
Alzheimer's Disease Task Force	173.04(F)	
AMBER Alert Advisory Committee	5502.521	
Apprenticeship Council	4139.02	
Armory Board of Control	5911.09	
Automated Title Processing Board	4505.09(C)(1)	

Banking Commission	1123.01	87909
Board of Directors of the Ohio Health Reinsurance Program	3924.08	87910
Board of Voting Machine Examiners	3506.05(B)	87911
Board of Tax Appeals	5703.02	87912
Brain Injury Advisory Committee	3304.231	87913
Capitol Square Review and Advisory Board	105.41	87914
Child Support Guideline Advisory Council	3119.024	87915
Children's Trust Fund Board	3109.15	87916
Citizens Advisory Committee (BMV)	4501.025	87917
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	87918
Clean Ohio Trail Advisory Board	1519.06	87919
Coastal Resources Advisory Council	1506.12	87920
Commission on African-American Males	4112.12	87921
Commission on Hispanic-Latino Affairs	121.31	87922
Commission on Minority Health	3701.78	87923
Committee on Prescriptive Governance	4723.49	87924
Commodity Advisory Commission	926.32	87925
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	87926
Community Oversight Council	3311.77	87927
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	87928
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	87929
Continuing Education Committee (for Sheriffs)	109.80	87930
Controlling Board	127.12	87931
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	87932
Council on Alcohol and Drug Addiction Services	3793.09	87933
Council on Unreclaimed Strip Mined Lands	1513.29	87934

Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	87935
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	87936
Credit Union Council	1733.329	87937
Criminal Sentencing Advisory Committee	181.22	87938
Day-Care Advisory Council	5104.08	87939
Dentist Loan Repayment Advisory Board	3702.92	87940
Development Financing Advisory Council	122.40	87941
Education Commission of the States (Interstate Compact for Education)	3301.48	87942
Electrical Safety Inspector Advisory Committee	3783.08	87943
Emergency Response Commission	3750.02	87944
Engineering Experiment Station Advisory Committee	3335.27	87945
Environmental Education Council	3745.21	87946
Environmental Review Appeals Commission	3745.02	87947
EPA Advisory Boards or Councils	121.13	87948
Farmland Preservation Advisory Board	901.23	87949
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	87950
Financial Planning & Supervision Commission for School District	3316.05	87951
Forestry Advisory Council	1503.40	87952
Governance Authority for a State University or College	3345.75	87953
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	87954
Governor's Council on People with Disabilities	3303.41	87955
Governor's Residence Advisory Commission	107.40	87956
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	87957
Gubernatorial Transition Committee	107.29	87958
Head Start Partnership Study Council	Section 41.35,	87959

	H.B. 95, 125th GA	
Hemophilia Advisory Subcommittee	3701.0210	87960
Housing Trust Fund Advisory Committee	175.25	87961
Industrial Commission Nominating Council	4121.04	87962
Industrial Technology and Enterprise Advisory Council	122.29	87963
Infant Hearing Screening Subcommittee	3701.507	87964
Insurance Agent Education Advisory Council	3905.483	87965
Interagency Council on Hispanic/Latino Affairs	121.32(J)	87966
Interstate Mining Commission (Interstate Mining Compact)	1514.30	87967
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	87968
Joint Council on MR/DD	101.37	87969
Joint Select Committee on Volume Cap	133.021	87970
Labor-Management Government Advisory Council	4121.70	87971
Legal Rights Service Commission	5123.60	87972
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	87973
Maternal and Child Health Council	3701.025	87974
Medically Handicapped Children's Medical Advisory Council	3701.025	87975
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	87976
Military Activation Task Force	5902.15	87977
Milk Sanitation Board	917.03	87978
Mine Subsidence Insurance Governing Board	3929.51	87979
Minority Development Financing Board	122.72	87980
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	87981
Multidisciplinary Council	3746.03	87982

Muskingum River Advisory Council	1501.25	87983
National Museum of Afro-American History and Culture Planning Committee	149.303	87984
Nursing Facility Reimbursement Study Council	5111.34	87985
Ohio Advisory Council for the Aging	173.03	87986
Ohio Aerospace & Defense Advisory Council	122.98	87987
Ohio Arts Council	3379.02	87988
Ohio Business Gateway Steering Committee	5703.57	87989
Ohio Cemetery Dispute Resolution Commission	4767.05	87990
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	87991
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	87992
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	87993
Ohio Commission on Dispute Resolution and Conflict Management	179.02	87994
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	87995
Ohio Community Service Council	121.40	87996
Ohio Council for Interstate Adult Offender Supervision	5149.22	87997
Ohio Cultural Facilities Commission	3383.02	87998
Ohio Developmental Disabilities Council	5123.35	87999
Ohio Educational Telecommunications Network Commission	3353.02	88000
Ohio Ethics Commission	102.05	88001
Ohio Expositions Commission	991.02	88002
Ohio Family and Children First Cabinet Council	121.37	88003
Ohio Geology Advisory Council	1505.11	88004
Ohio Grape Industries Committee	924.51	88005
Ohio Hepatitis C Advisory Commission	3701.92	88006

Ohio Historic Site Preservation Advisory Board	149.301	88007
Ohio Historical Society Board of Trustees	149.30	88008
Ohio Judicial Conference	105.91	88009
Ohio Lake Erie Commission	1506.21	88010
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	88011
Ohio Medical Quality Foundation	3701.89	88012
Ohio Parks and Recreation Council	1541.40	88013
Ohio Peace Officer Training Commission	109.71	88014
Ohio Public Defender Commission	120.01	88015
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	88016
Ohio Public Works Commission	164.02	88017
Ohio Quarter Horse Development Commission	3769.086	88018
Ohio SchoolNet Commission	3301.80	88019
Ohio Small Government Capital Improvements Commission	164.02	88020
Ohio Soil and Water Conservation Commission	1515.02	88021
Ohio Standardbred Development Commission	3769.085	88022
Ohio Steel Industry Advisory Council	122.97	88023
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	88024
Ohio Thoroughbred Racing Advisory Committee	3769.084	88025
Ohio Tuition Trust Authority	3334.03	88026
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	88027

Ohio Vendors Representative Committee	3304.34	88028
Ohio War Orphans Scholarship Board	5910.02	88029
Ohio Water Advisory Council	1521.031	88030
Ohio Water Resources Council	1521.19	88031
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	88032
Oil and Gas Commission	1509.35	88033
Operating Committee, Agricultural Commodity Marketing Programs	924.07	88034
Organized Crime Investigations Commission	177.01	88035
Parole Board	5149.10	88036
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	88037
Physician Loan Repayment Advisory Board	3702.81	88038
Power Siting Board	4906.02	88039
Prequalification Review Board	5525.07	88040
Private Water Systems Advisory Council	3701.346	88041
Public Employment Risk Reduction Advisory Commission	4167.02	88042
Public Health Council	3701.33	88043
Public Utilities Commission Nominating Council	4901.021	88044
Public Utility Property Tax Study Committee	5727.85	88045
Radiation Advisory Council	3748.20	88046
Reclamation Commission	1513.05	88047
Recreation and Resources Commission	1501.04	88048
Recycling and Litter Prevention Advisory Council	1502.04	88049
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	88050
Release Authority of Department of Youth Services	5139.50	88051
Savings & Loans Associations & Savings Banks Board	1181.16	88052
Schools and Ministerial Lands Divestiture Committee	501.041	88053
Second Chance Trust Fund Advisory Committee	2108.17	88054

Self-Insuring Employers Evaluation Board	4123.352	88055
Services Committee of the Workers' Compensation System	4121.06	88056
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	88057
Solid Waste Management Advisory Council	3734.51	88058
State Agency Coordinating Group	1521.19	88059
State Board of Deposit	135.02	88060
State Board of Emergency Medical Services	4765.04	88061
Subcommittees		
State Council of Uniform State Laws	105.21	88062
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	88063
State Criminal Sentencing Commission	181.21	88064
State Employment Relations Board	4117.02	88065
State Fire Commission	3737.81	88066
State Racing Commission	3769.02	88067
State Victims Assistance Advisory Committee	109.91	88068
Student Tuition Recovery Authority	3332.081	88069
Tax Credit Authority	122.17	88070
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	88071
Technical Advisory Council on Oil and Gas	1509.38	88072
Transportation Review Advisory Council	5512.07	88073
Unemployment Compensation Review Commission	4141.06	88074
Unemployment Compensation Advisory Council	4141.08	88075
Utility Radiological Safety Board	4937.02	88076
Vehicle Management Commission	125.833	88077
Veterans Advisory Committee	5902.02(K)	88078
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	88079
Water and Sewer Commission	1525.11(C)	88080

Waterways Safety Council	1547.73	88081
Wildlife Council	1531.03	88082
Workers' Compensation System Oversight Commission	4121.12	88083
Workers' Compensation Oversight Commission	4121.123	88084
Nominating Committee		

Section 403.06. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly is hereby repealed.

Section 403.10.01. That Section 26.01 of Am. Sub. S.B. 189 of the 125th General Assembly be amended to read as follows:

Reappropriations

Sec. 26.01. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK		88089
COMMISSION <u>ETC ETECH OHIO</u>		88090
CAP-001 Educational Television and Radio	\$ 1,650,617	88091
Equipment	<u>3,378,684</u>	
CAP-002 Educational Broadcasting Fiber Optic	\$ 51,748	88092
Network		
Total Ohio Educational Telecommunications Network	\$ 1,702,365	88093
Commission <u>eTech Ohio</u>	<u>3,430,432</u>	

EDUCATIONAL TELEVISION AND RADIO EQUIPMENT 88094

The foregoing appropriation item CAP-001, Educational Television and Radio Equipment, shall be used to provide broadcasting, transmission, and production equipment to Ohio public radio and television stations, radio reading services, and ~~the Ohio Educational Telecommunications Network Commission~~ eTech Ohio.

EDUCATIONAL BROADCASTING FIBER OPTIC NETWORK 88101

The foregoing appropriation item CAP-002, Educational Broadcasting Fiber Optic Network, shall be used to link the Ohio public radio and television stations, radio reading services, and

~~the Ohio Educational Broadcasting Network~~ eTech Ohio for the 88105
reception and transmission of digital communications through fiber 88106
optic cable or other technology. 88107

Section 403.10.02. That existing Section 26.01 of Am. Sub. 88108
S.B. 189 of the 125th General Assembly is hereby repealed. 88109

Section 403.07. That Section 74 of Am. Sub. S.B. 189 of the 88110
125th General Assembly be amended to read as follows: 88111

Sec. 74. Not later than June 30, ~~2005~~ 2006, the Director of 88112
Mental Health shall revise rule 5122-29-06 of the Administrative 88113
Code regarding the certification standards for the 88114
partial-hospitalization community mental health service. As part 88115
of the revision, the Director shall address client eligibility 88116
criteria. 88117

Section 403.08. That existing Section 74 of Am. Sub. S.B. 189 88118
of the 125th General Assembly is hereby repealed. 88119

Section 403.09. That Section 22 of Am. Sub. S.B. 189 of the 88120
125th General Assembly, as amended by Am. Sub. H.B. 16 of the 88121
126th General Assembly, be amended to read as follows: 88122

Sec. 22. All items set forth in this section are hereby 88123
appropriated out of any moneys in the state treasury to the credit 88124
of the Cultural and Sports Facilities Building Fund (Fund 030) 88125
that are not otherwise appropriated: 88126

Reappropriations

AFC CULTURAL FACILITIES COMMISSION			88127
CAP-003	Center of Science and Industry - Toledo	\$ 12,268	88128
CAP-004	Valentine Theatre	\$ 1,111	88129
CAP-005	Center of Science and Industry - Columbus	\$ 181,636	88130

CAP-010	Sandusky State Theatre Improvements	\$	1,000,000	88131
CAP-017	Zion Center of the National Afro-American Museum	\$	488,232	88132
CAP-021	Ohio Historical Center - Archives and Library Shelving	\$	2,395	88133
CAP-033	Woodward Opera House Renovation	\$	1,050,000	88134
CAP-037	Canton Palace Theatre Renovations	\$	1,066,126	88135
CAP-038	Center Exhibit Replacement	\$	750,000	88136
CAP-042	Statewide Site Exhibit/Renovation & Construction	\$	625,000	88137
CAP-043	Statewide Site Repairs	\$	454,000	88138
CAP-046	Cincinnati Museum Center Improvements	\$	500,000	88139
CAP-052	Akron Art Museum	\$	6,634,666	88140
CAP-053	Powers Auditorium Improvements	\$	200,000	88141
CAP-055	Waco Museum & Aviation Learning Center	\$	500,000	88142
CAP-057	Comprehensive Master Plan	\$	180,000	88143
CAP-058	Cedar Bog Nature Preserve Education Center	\$	766,200	88144
CAP-061	Statewide Arts Facilities Planning	\$	35,931	88145
CAP-063	Robins Theatre Renovations	\$	1,000,000	88146
CAP-064	Bramley Historic House	\$	75,000	88147
CAP-066	Delaware County Cultural Arts Center	\$	40,000	88148
CAP-068	Perry County Historical Society	\$	100,000	88149
CAP-069	Cleveland Institute of Art	\$	750,000	88150
CAP-071	Cleveland Institute of Music	\$	750,000	88151
CAP-072	West Side Arts Consortium	\$	138,000	88152
CAP-074	Stan Hywet Hall & Gardens	\$	250,000	88153
CAP-075	McKinley Museum Improvements	\$	125,000	88154
CAP-076	Spring Hill Historic Home	\$	125,000	88155
CAP-077	Western Reserve Ballet Improvements	\$	100,000	88156
CAP-078	Midland Theatre	\$	175,000	88157
CAP-079	Lorain Palace Civic Theatre	\$	200,000	88158
CAP-080	Great Lakes Historical Society	\$	150,000	88159

CAP-734	Hayes Presidential Center	\$	75,000	88160
CAP-745	Historic Sites and Museums	\$	750,000	88161
CAP-753	Buffington Island State Memorial	\$	91,500	88162
CAP-770	Serpent Mound State Memorial	\$	295,000	88163
CAP-784	Ohio Historical Center Rehabilitation	\$	673,700	88164
CAP-786	Piqua/Ft Picakawillany Acquisition and Improvements	\$	136,000	88165
CAP-789	Neil Armstrong Air and Space Museum Improvements	\$	103,516	88166
CAP-791	Harrison Tomb and Site Renovations	\$	149,500	88167
CAP-796	Moundbuilders State Memorial	\$	530,000	88168
CAP-806	Grant Boyhood Home Improvements	\$	68,333	88169
CAP-809	Cincinnati Ballet Facility Improvements	\$	450,000	88170
CAP-810	Toledo Museum of Art Improvements	\$	2,000,000	88171
CAP-814	Crawford Museum of Transportation & Industry	\$	2,500,000	88172
CAP-820	Historical Center Ohio Village Buildings	\$	502,000	88173
CAP-821	Lorain County Historical Society	\$	300,000	88174
CAP-822	Madison County Historic Schoolhouse	\$	40,000	88175
CAP-823	Marion Palace Theatre	\$	825,000	88176
CAP-824	McConnellsville Opera House	\$	75,000	88177
CAP-825	Secrest Auditorium	\$	75,000	88178
CAP-826	Renaissance Theatre	\$	50,000	88179
CAP-827	Trumpet in the Land	\$	100,000	88180
CAP-828	Becky Thatcher Showboat	\$	30,000	88181
CAP-829	Mid Ohio Valley Players	\$	50,000 <u>80,000</u>	88182
CAP-830	The Anchorage	\$	50,000	88183
CAP-831	Wayne County Historical Society	\$	300,000	88184
CAP-833	Promont House Museum	\$	200,000	88185
CAP-836	Fairfield Outdoor Theatre	\$	100,000	88186
CAP-837	Lake County Historical Society	\$	250,000	88187
CAP-839	Hancock Historical Society	\$	75,000	88188
CAP-840	Riversouth Development	\$	1,000,000	88189

CAP-841	Ft. Piqua Hotel	\$	200,000	88190
CAP-843	Marina District/Ice Arena Development	\$	4,000,000	88191
Total Cultural Facilities Commission		\$	34,470,114	88192
			<u>34,370,114</u>	88193
TOTAL CULTURAL and Sports Facilities Building Fund		\$	34,470,114	88194
			<u>34,370,114</u>	88195
COSI COLUMBUS - LOCAL ADMINISTRATION OF CAPITAL PROJECT				88196
CONTRACTS				88197
Notwithstanding division (A) of section 3383.07 of the				88198
Revised Code, the Ohio Cultural Facilities Commission, with				88199
respect to the foregoing appropriation item CAP-005, Center of				88200
Science and Industry - Columbus, may administer all or part of				88201
capital facilities project contracts involving exhibit fabrication				88202
and installation as determined by the Department of Administrative				88203
Services, the Center of Science and Industry - Columbus, and the				88204
Ohio Cultural Facilities Commission in review of the project				88205
plans. The Ohio Cultural Facilities Commission shall enter into a				88206
contract with the Center of Science and Industry - Columbus to				88207
administer the exhibit fabrication and installation contracts and				88208
such contracts are not subject to Chapter 123. or 153. of the				88209
Revised Code.				88210
SPORTS FACILITIES IMPROVEMENTS - AKRON				88211
The amount reappropriated to the Cultural and Sports				88212
Facilities Building Fund (Fund 030), CAP-024, Sports Facilities				88213
Improvements - Akron, is the unallotted and unencumbered balance				88214
in the Sports Facilities Building Fund (Fund 024), CAP-024, Sports				88215
Facilities Improvements - Akron.				88216
REDS HALL OF FAME				88217
The amount reappropriated to the Cultural and Sports				88218
Facilities Building Fund (Fund 030), CAP-025, Reds Hall of Fame,				88219
is the unallotted and unencumbered balance in the Sports				88220

Facilities Building Fund (Fund 024), CAP-025, Reds Hall of Fame.	88221
AKRON ART MUSEUM	88222
The amount reappropriated for the foregoing appropriation	88223
item CAP-052, Akron Art Museum, is the unencumbered and unallotted	88224
balance as of June 30, 2004, in appropriation item CAP-052, Akron	88225
Art Museum, plus \$1,634,666.	88226
RIVERSOUTH DEVELOPMENT	88227
The amount reappropriated for the foregoing appropriation	88228
item CAP-840, Riversouth Development, is the unencumbered and	88229
unallotted balance as of June 30, 2004, in appropriation item	88230
CAP-840, Riversouth Development, minus \$9,000,000.	88231
MARINA DISTRICT/ICE ARENA DEVELOPMENT	88232
The amount reappropriated to the Cultural and Sports	88233
Facilities Building Fund (Fund 030), CAP-843, Marina District/Ice	88234
Arena Development, is the unallotted and unencumbered balance in	88235
the Sports Facilities Building Fund (Fund 024), CAP-073, Marina	88236
District/Ice Arena Development.	88237
Section 403.10. That existing Section 22 of Am. Sub. S.B. 189	88238
of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of	88239
the 126th General Assembly, is hereby repealed.	88240
Section 403.11. That Section 3 of Am. Sub. H.B. 621 of the	88241
122nd General Assembly, as most recently amended by Am. Sub. H.B.	88242
95 of the 125th General Assembly, be amended to read as follows:	88243
Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and	88244
901.83 of the Revised Code are hereby repealed, effective October	88245
15, 2005 <u>2007</u> .	88246
Section 403.12. That existing Section 3 of Am. Sub. H.B. 621	88247

of the 122nd General Assembly, as most recently amended by Am. 88248
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 88249

Section 403.17. That Section 153 of Am. Sub. H.B. 117 of the 88250
121st General Assembly, as most recently amended by Am. Sub. H.B. 88251
95 of the 125th General Assembly, be amended to read as follows: 88252

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 88253
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 88254
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 88255
repealed, effective October 16, ~~2005~~ 2007. 88256

(B) Any money remaining in the Legislative Budget Services 88257
Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of 88258
the Revised Code is repealed by division (A) of this section, 88259
shall be used solely for the purposes stated in then former 88260
section 5112.19 of the Revised Code. When all money in the 88261
Legislative Budget Services Fund has been spent after then former 88262
section 5112.19 of the Revised Code is repealed under division (A) 88263
of this section, the fund shall cease to exist. 88264

Section 403.18. That existing Section 153 of Am. Sub. H.B. 88265
117 of the 121st General Assembly, as most recently amended by Am. 88266
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 88267

Section 403.23. That Section 5 of Am. Sub. S.B. 50 of the 88268
121st General Assembly, as most recently amended by Am. Sub. H.B. 88269
95 of the 125th General Assembly, be amended to read as follows: 88270

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st 88271
General Assembly shall take effect July 1, ~~2005~~ 2007. 88272

Section 403.24. That existing Section 5 of Am. Sub. S.B. 50 88273
of the 121st General Assembly, as most recently amended by Am. 88274

Sub. H.B. 95 of the 125th General Assembly is hereby repealed.	88275
*Section 490.03. That Section 59.19 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.	88276 88277
*Section 490.04. Section 89.17 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.	88278 88279
Section 490.06. That Section 147 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.	88280 88281
Section 503.03. As used in this section, "state agency" means the administrative departments identified in section 121.02 of the Revised Code and the bureau of workers' compensation.	88282 88283 88284
During 2005, the Auditor of State shall examine the compliance of each state agency with the requirements of section 131.02 of the Revised Code. The examination shall inquire into the following matters:	88285 88286 88287 88288
(A) The practices and procedures used by the agency to collect claims before the claims are certified to the Attorney General as required by section 131.02 of the Revised Code;	88289 88290 88291
(B) The number of individuals employed by the agency or engaged under contract with the agency in 2003 and 2004 whose only or whose primary duty is to collect amounts owed to the agency;	88292 88293 88294
(C) For claims certified to the Attorney General under section 131.02 of the Revised Code in 2003 and 2004, the average number of days elapsing between the last day for timely payment of the claims and the day the agency certified the claim to the Attorney General.	88295 88296 88297 88298 88299
For the purposes of the examination required by this section, the Auditor of State may request a state agency to provide reports	88300 88301

to the Auditor of State on the matters described under divisions 88302
(A), (B), and (C) of this section. State agencies shall provide 88303
such reports to the Auditor of State within 60 days after the 88304
request, but the Auditor of State may extend the time for 88305
providing the report for good cause for up to sixty days. 88306

Not later than March 31, 2006, the Auditor of State shall 88307
submit a written report of the Auditor of State's findings under 88308
this section to the Governor, the Speaker of the House of 88309
Representatives, the President of the Senate, and the Legislative 88310
Service Commission. 88311

Section 503.09. (A) There is hereby created the Correctional 88312
Faith-Based Initiatives Task Force consisting of the following 88313
seventeen members: 88314

(1) One member of the House of Representatives appointed by 88315
the Speaker of the House of Representatives; 88316

(2) One member of the House of Representatives appointed by 88317
the leader of the minority party of the House of Representatives; 88318

(3) One member of the Senate appointed by the President of 88319
the Senate; 88320

(4) One member of the Senate appointed by the Minority Leader 88321
of the Senate; 88322

(5) Two members appointed by the Governor; 88323

(6) The Director of Rehabilitation and Correction or the 88324
director's designee; 88325

(7) Three members appointed by the Director of Rehabilitation 88326
and Correction who have expertise or experience in faith-based 88327
programs in the correctional setting; 88328

(8) The Director of Job and Family Services or the director's 88329
designee; 88330

(9) The Director of Youth Services or the director's
designee; 88331
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(10) One member appointed by the Director of Youth Services
who has expertise or experience in the juvenile court system; 88333
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(11) The Director of Alcohol and Drug Addiction Services or
the director's designee; 88335
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(12) The Director of Mental Health or the director's
designee; 88337
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(13) The Executive Director of the Division of Criminal
Justice Services or the executive director's designee; 88339
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(14) One member appointed by the executive assistant in
charge of the Governor's Office of Faith-Based and Community
Initiatives. 88341
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(B) The Director of Rehabilitation and Correction, or the
director's designee, and the member of the House of
Representatives appointed by the Speaker of the House of
Representatives shall be co-chairs of the task force. The task
force shall meet at least once each month. The Department of
Rehabilitation and Correction shall provide the task force with a
meeting room and secretarial assistance. 88344
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(C) The task force shall study seamless faith-based solutions
to problems in the correctional system, focusing on diversion
programs, programs and services in the prison system and for
families of incarcerated individuals, and the faith-based and
nonprofit organizations that provide the programs and services.
The task force shall examine existing faith-based programs in
prisons in Ohio and other states and shall consider the
feasibility of replicating programs from other states and
developing model faith-based penal institutions, faith-based units
within penal institutions, and faith-based programs to reduce 88351
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recidivism of offenders after their release from prison, improve 88361
prison management, and deal with juveniles who have been held over 88362
to or are in the adult penal system or who have parents who are 88363
incarcerated. 88364

(D) On or before the first anniversary of the effective date 88365
of this section, the task force shall provide a written report and 88366
recommendations to the Governor, the Speaker of the House of 88367
Representatives, and the President of the Senate. Upon submitting 88368
the report and recommendations, the task force shall cease to 88369
exist. 88370

Section 503.12. (A) There is hereby created the Local 88371
Government and Library Revenue Distribution Task Force consisting 88372
of the following members: 88373

(1) Five members of the House of Representatives to be 88374
appointed by the Speaker of the House of Representatives, at least 88375
two of whom shall be from the minority party; 88376

(2) Five members of the Senate to be appointed by the 88377
President of the Senate, at least two of whom shall be from the 88378
minority party. 88379

All appointments shall be made within thirty days after the 88380
effective date of this section. Vacancies on the Task Force shall 88381
be filled in the same manner as the original appointments. The 88382
Task Force shall designate one of the members to serve as 88383
chairperson. The initial meeting to organize the Task Force shall 88384
be called by the Tax Commissioner. 88385

(B) The Task Force shall study potential sources of state 88386
funding for the Local Government Fund, the Library and Local 88387
Government Support Fund, and the Local Government Revenue 88388
Assistance Fund that have the capacity to allow for growth in 88389
funding levels and to provide stability in funding levels. In 88390

addition, the Task Force shall consider changes to the codified
funding formulae for the Local Government Fund, the Library and
Local Government Support Fund, and the Local Government Revenue
Assistance Fund that reflect the reform to Ohio tax code.

(C) The Task Force shall receive staff assistance from the
Tax Commissioner and may request assistance from the Legislative
Service Commission. The Task Force shall consult with the County
Commissioners Association of Ohio, the Ohio Township Association,
the Ohio Municipal League, the Ohio Library Council, and the Ohio
Parks and Recreation Association. The Task Force shall also seek
the input and testimony of other interested parties.

(D) Not later than December 1, 2006, the Task Force shall
submit a report to the Governor and to the General Assembly
setting forth its recommendations for sources of funding for the
funds specified in division (B) of this section, together with
suggested legislation to implement the recommendations.

(E) The Task Force shall cease to exist upon issuing its
report.

Section 503.15. (A) Notwithstanding any other provision of
law to the contrary, the appointment and removal provisions of the
resolutions and ordinances governing the board of trustees of any
regional transit authority consisting of a county having a
population of at least five hundred thousand, according to the
2000 federal census, and two municipal corporations, are void on
the effective date of this act. The appointment and removal of the
board of trustees of such regional transit authority shall comply
with section 306.331 of the Revised Code.

(B) Within the first five days after the effective date of
this act, the county and municipal corporations of such regional
transit authority shall appoint a new board of trustees for the

regional transit authority in accordance with section 306.331 of 88421
the Revised Code. 88422

(C) Notwithstanding any other provision of law to the 88423
contrary, on the fifth day after the effective date of this act, 88424
the board of trustees of such regional transit authority, as 88425
constituted on the effective date of this act, is dissolved and 88426
the board appointed in accordance with section 306.331 of the 88427
Revised Code shall meet and organize. 88428

(D) This act shall not be construed as affecting the validity 88429
of any action of such regional transit authority taken prior to 88430
the effective date of this act. 88431

Section 506.03. (A) The Governor is hereby authorized to 88432
execute a deed in the name of the state conveying to 88433
Hocking.Athens.Perry Community Action and its successors and 88434
assigns all of the state's right, title, and interest in the 88435
following described real estate: 88436

Situate in the Village of Glouster, Trimble Township, Athens 88437
County, Ohio, and being a part of a tract as described in Volume 88438
384, Page 47 of the Deed Records of Athens County, and being more 88439
particularly described as follows: 88440

Beginning at an iron pinset at the northeast corner of Lot 88441
848 of the Wassall Fire Clay Company's Addition to the Village of 88442
Glouster; thence along the south line of a 10.00 foot alley South 88443
85° 54' 29" East 219.30 feet to an iron pin set, thence along the 88444
west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 88445
528.53 feet to an iron pin found; thence along the west line of a 88446
44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet 88447
to an iron pin found; thence North 81° 51' 07" West 594.65 feet to 88448
a point on the east right of way line of the former Toledo and 88449
Ohio Central Railroad (passing an iron pin found at 586.43 feet); 88450

thence along said line North 1° 39' 06" West, 734.24 feet to an iron pin found; thence along the south line of Lot 860 in said Village South 85° 54' 11" East, 188.77 feet to an iron pin set; thence along the east line of Lots 860 and 859 North 4° 05' 20" East, 100.00 feet to an iron pin set (an iron pin found for reference bears South 70° 30' 21" East, 1.01 feet); thence along the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 feet to an iron pin found; thence along the east line of Lot 848 North 4° 05' 30" East, 40.00 feet to the point of beginning and containing 14.046 acres.

Subject to all Easements and Rights of Way of Record.

Bearings used are to an assumed meridian and are for angular determination only.

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS #S-7581.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS:

Tract 1-0.020 acre: Situate in the Village of Glouster, Trimble Township, Athens County, Ohio, and being a part of a tract as previously described in Volume 384, Page 47 of the Deed Records of Athens County and being more particularly described as follows: Commencing at an iron pin set at the southeast corner of Lot 860 of the Wassall Fire Clay Company's Addition to the Village of Glouster; thence along the south line of said lot North 85° 54' 11" West, 88.77 feet to an iron pin set at the point of beginning of this tract; thence leaving said line and along a new line South 4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 10.00 feet); thence along a new line parallel to the south line of the previously mentioned lot line North 85° 54' 11" West, 60.00 feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet to an iron pin set on grantors most westerly north line (passing an iron pin set at 5.00 feet); thence along said line South 85°

54' 11" East, 60.00 feet to the point of beginning and containing 88482
0.020 acre. Subject to all easements and rights of way of record. 88483
Bearings used are to an assumed meridian and are for angular 88484
determination only. Surveyed August 1997 by Kenneth E. Highland, 88485
Ohio PLS #S-7581. 88486

Deed Reference:Volume 263, Page 540 and Volume 299, Page 185, 88487
Athens County Official Records. 88488

Tract 2-0.013 acre: Situate in the Village of Glouster, 88489
Trimble Township, Athens County, Ohio, and being a part of a tract 88490
as previously described in Volume 384, Page 47 of the Deed Records 88491
of Athens County and being more particularly described as follows: 88492
Commencing at an iron pin set at the southwest corner of Lot 857 88493
of the Wassall Fire Clay Company's Addition to the Village of 88494
Glouster; thence along the south line of said lot South 85° 54' 88495
29" East, 90.00 feet to an iron pin set at the point of beginning 88496
of this tract; thence continuing along said line South 85° 54' 29" 88497
East, 60.00 feet to an iron pin set at the southeast corner of 88498
said lot; thence along a new line South 4° 05' 31" West 10.00 feet 88499
to an iron pin set; thence along a line parallel to the south line 88500
of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; 88501
thence along a new line North 4° 05' 31" East, 10.00 feet to the 88502
point of beginning and containing 0.013 acre. Subject to all 88503
easements and rights of way of record. Bearings used are to an 88504
assumed meridian and are for angular determination only. Surveyed 88505
August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 88506
2000. 88507

Deed Reference:Volume 299, Page 704; Volume 263, Page 544; 88508
and Volume 299, Page 183, Athens County Official Records. 88509

DEED REFERENCE:VOLUME _____, PAGE _____; VOLUME 298, PAGE 88510
2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS. 88511

(B) Consideration for the conveyance of the real estate 88512

described in division (A) of this section is the purchase price of one dollar. 88513
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(C) Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate described in division (A) of this section. The deed shall state the consideration. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to Hocking.Athens.Perry Community Action. Hocking.Athens.Perry Community Action shall present the deed for recording in the Office of the Athens County Recorder. 88515
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(D) Hocking.Athens.Perry Community Action shall pay the costs of the conveyance of the real estate described in division (A) of this section. 88525
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(E) This section expires one year after its effective date. 88528

Section 506.06. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to the purchaser, and the purchaser's heirs and assigns or successors and assigns, all of the state's right, title, and interest in the following described real estate: 88529
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Situated in the State of Ohio, County of Clark and the Township of Springfield, City of Springfield. 88534
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Being a part of the Southwest quarter of Section twenty-three, Township five, Range nine and a part of the west half of Section seventeen, Township five, Range nine, B.M.R.S. 88536
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Beginning at the intersection of the centerline of the Old National Road (now the west bound lane of the New National Road) with the East line of Section twenty-three; 88539
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thence with the centerline of said road S 86°30'W 20.0 feet; 88542

thence parallel to the section line N 2°0'W 1000.0 feet to a point; 88543
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thence N 86°30' E 20.0 feet to a point on the section line; 88545

thence with the section line N 2°0' W 94.63 feet to a bar; 88546

thence N 86°30' E 683.10 feet to a stake in the Ogden Road right of way; 88547
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thence with said road S 2°0' E 525.05 feet to a point in the road; 88549
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thence S 86°30' W 20.0 feet to a point; 88551

thence parallel to the road S 2°0' E 569.58 feet to the centerline of the Old National Road; 88552
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thence with said road S 86°30' W 663.10 feet to the place of beginning, and containing seventeen and thirty-six hundredths (17.36) Acres of land 88554
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Being a part of the same premises conveyed to said Board of county commissioners of Clark County, Ohio, by the following: 88557
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Deed from Mary E. Kinnane dated August 20, 1920, and recorded in Volume 170, page 464; Deed from the Board of County Commissioners of Champaign County, Ohio dated January 30, 1925, and recorded in Volume 239, Page 155; Deed from Board of Commissioners of Greene County, Ohio dated January 30, 1925, and recorded in Volume 239, Page 160; Deed from Board of County Commissioners of Madison County, Ohio, dated January 30, 1925, and recorded in Volume 239, page 153; all in the Deed Records of Clark County, Prior Deed reference: Volume 568, Page 61. 88559
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(B) The Ohio Department of Mental Retardation and Developmental Disabilities shall appraise the real estate described in division (A) of this section or have it appraised by one or more disinterested persons for a fee to be determined by the Department. 88568
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(C) The Director of Administrative Services shall offer the real estate described in division (A) of this section for sale as follows:

(1) The Director shall review the appraisal, establish an appraised value for the real estate, and provide notice to the Ohio Department of Mental Retardation and Developmental Disabilities of any interest expressed by any state entity in acquiring the real estate at the appraised value. The Director shall first offer the real estate at the appraised value to any state entity that has expressed an interest in so acquiring the real estate.

(2) If no state entity expresses an interest in acquiring the real estate at the appraised value, or if a state entity accepts the offer mentioned in division (C)(1) of this section but fails to timely complete the purchase, the Director shall offer the real estate at the appraised value to the Board of County Commissioners of Clark County.

(3) If, after thirty days, the Board of County Commissioners of Clark County does not accept such an offer to purchase the real estate at the appraised value, or if the Board accepts the offer but fails to timely complete the purchase, the Director shall offer the real estate at the appraised value to the City of Springfield.

(4)(a) If, after thirty days, the City of Springfield does not accept such an offer to purchase the real estate at the appraised value, or if the City of Springfield accepts the offer but fails to timely complete the purchase, a public auction of the real estate shall be held in accordance with division (C)(4)(c) of this section and with a required sale price of not less than two-thirds of the appraised value.

(b) If, after a public auction as provided for in division

(C)(4)(a) of this section, no bids for at least two-thirds of the
appraised value are received, a second public auction shall be
held in accordance with division (C)(4)(c) of this section, and
the real estate shall be sold, subject to that division, to the
highest bidder at a price acceptable to both the Director of
Administrative Services and the Ohio Department of Mental
Retardation and Developmental Disabilities.

(c) The Director may reject any and all bids at a public
auction under division (C)(4)(a) or (b) of this section. The
Director shall advertise each auction in a newspaper of general
circulation in Clark County once a week for three consecutive
weeks immediately prior to the date of the auction. The terms of
sale of the real estate at an auction shall be ten per cent of the
purchase price in cash, bank draft, or certified check on the date
of sale, with the balance payable within sixty days after the date
of sale. A purchaser who does not complete the conditions of the
sale as stipulated in this section shall forfeit the ten per cent
of the purchase price paid on the date of sale to the state as
liquidated damages.

(D) The real estate described in division (A) of this section
shall be sold as an entire parcel and not subdivided.

(E) Advertising costs, appraisal fees, and all other costs of
the sale of the real estate described in division (A) of this
section shall be paid by the Ohio Department of Mental Retardation
and Developmental Disabilities.

(F) Upon payment of ten per cent of the purchase price in
accordance with division (C) of this section, or upon notice from
the Director of Administrative Services that the real estate
described in division (A) of this section has been sold other than
at a public auction in accordance with division (C) of this
section, the Auditor of State, with the assistance of the Attorney

General, shall prepare a deed to the real estate described in 88635
division (A) of this section. The deed shall state the 88636
consideration. The deed shall be executed by the Governor in the 88637
name of the state, countersigned by the Secretary of State, sealed 88638
with the Great Seal of the State, presented in the Office of the 88639
Auditor of State for recording, and delivered to the purchaser 88640
upon the payment of the balance of the purchase price. The 88641
purchaser shall present the deed for recording in the Office of 88642
the Clark County Recorder. 88643

(G) The net proceeds of the sale of the real estate described 88644
in division (A) of this section shall be deposited in the state 88645
treasury to the credit of the Mental Health Facilities Improvement 88646
Fund created in section 154.20 of the Revised Code and shall be 88647
used to offset bond indebtedness for Springview Developmental 88648
Center capital projects. 88649

(H) This section shall expire two years after its effective 88650
date. 88651

Section 509.03. (A)(1) The Clerk of the Medina Municipal 88652
Court shall be elected by the qualified electors of the territory 88653
of the court in the manner that is provided for the election of 88654
the judge of that court in section 1901.07 of the Revised Code at 88655
the first general election that occurs not less than six months 88656
after the effective date of this section. 88657

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of 88658
the Revised Code, the term of the Clerk of the Medina Municipal 88659
Court elected under division (A)(1) of this section shall commence 88660
on the first day of January following the clerk's election and 88661
continue until the clerk's successor is elected and qualified. The 88662
clerk's successor shall be elected pursuant to the schedule for 88663
the election of the judge of that court in sections 1901.07 and 88664
1901.08 of the Revised Code. 88665

(B) The Clerk of the Medina Municipal Court shall continue in office until the clerk elected pursuant to division (A) of this section takes office. If the office of Clerk of the Medina Municipal Court becomes vacant prior to the date that the clerk elected pursuant to division (A) of this section takes office, the judges of the court shall appoint a clerk to serve until the clerk elected pursuant to division (A) of this section takes office.

Section 512.03. The Motor Vehicle Inspection and Maintenance Fund that is created in section 3704.14 of the Revised Code, as reenacted by this act, is a continuation of the Motor Vehicle Inspection and Maintenance Fund that was created in section 3704.14 of the Revised Code, as repealed by this act. Money credited to the Fund under former section 3704.14 of the Revised Code shall be used for the purposes specified in new section 3704.14 of the Revised Code, as enacted by this act.

Section 553.01. (A) As used in this section:

(1) "Qualifying delinquent taxes" means any tax levied under Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, including the taxes levied under sections 5733.41 and 5747.41 of the Revised Code and taxes required to be withheld under Chapters 5747. and 5748. of the Revised Code, which were due and payable from any person as of May 1, 2005, were unreported or underreported, and remain unpaid.

(2) "Qualifying delinquent personal property taxes" means a tax for which a return is filed under section 5711.02 of the Revised Code. (3) "Qualifying delinquent taxes" and "qualifying delinquent personal property taxes" do not include any tax for 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 88728
shall be waived. 88729

(3) No payment required under division (G) of section 321.24 88730
of the Revised Code shall be made with respect to any person who 88731
pays qualifying delinquent personal property taxes under division 88732
(C)(2) of this section. 88733

(4) Notwithstanding any contrary provision of the Revised 88734
Code, the Tax Commissioner shall not furnish to the county auditor 88735
any information pertaining to the exemption from taxation under 88736
division (C)(3) of section 5709.01 of the Revised Code insofar as 88737
that information pertains to any person who pays qualifying 88738
delinquent personal property taxes under division (C)(2) of this 88739
section. 88740

(D) The Tax Commissioner may require a person participating 88741
in the program to file returns or reports, including amended 88742
returns and reports, in connection with the person's payment of 88743
qualifying delinquent taxes or qualifying delinquent personal 88744
property taxes. 88745

(E) A person who participates in the program and pays in full 88746
any outstanding qualifying delinquent tax or qualifying delinquent 88747
personal property tax and the interest payable on such tax in 88748
accordance with this section shall not be subject to any criminal 88749
prosecution or any civil action with respect to that tax, and no 88750
assessment shall thereafter be issued against that person with 88751
respect to that tax. 88752

(F) Taxes and interest collected under the program shall be 88753
credited to the General Revenue Fund, except that: 88754

(1) Qualifying delinquent personal property taxes and 88755
interest payable thereon shall be credited to the appropriate 88756
county undivided income tax fund, and the county auditor shall 88757
distribute the amount thereof among the various taxing districts 88758

in the county as if it had been levied, collected, and settled, as 88759
personal property taxes; 88760

(2) Qualifying delinquent taxes levied under section 88761
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 88762
distributed to the appropriate counties and transit authorities in 88763
accordance with section 5739.21 of the Revised Code during the 88764
next distribution required under that section; 88765

(3) Qualifying delinquent taxes levied under section 88766
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 88767
distributed to the appropriate counties and transit authorities in 88768
accordance with section 5741.03 of the Revised Code during the 88769
next distribution required under that section; and 88770

(4) Qualifying delinquent taxes levied under Chapter 5748. of 88771
the Revised Code shall be credited to the school district income 88772
tax fund and then paid to the appropriate school district during 88773
the next payment required under division (D) of section 5747.03 of 88774
the Revised Code. 88775

Section 553.02. Section 553.01 of this act is hereby 88776
repealed, effective December 16, 2005. The repeal of Section 88777
553.01 of this act does not affect, after the effective date of 88778
the repeal, the rights, remedies, or actions authorized under that 88779
section. 88780

Section 553.02.01. Notwithstanding section 5735.142 of the 88781
Revised Code, a city, exempted village, joint vocational, or local 88782
school district or educational service center that failed to file 88783
or failed to file in a timely manner an application for a refund 88784
of that portion of the motor vehicle fuel tax imposed by section 88785
5735.29 of the Revised Code that became effective on July 1, 2003, 88786
as permitted by section 5735.142 of the Revised Code, that the 88787
school district or educational service center paid through the 88788

purchase of motor fuel on or after that date may file such a 88789
refund application with the Tax Commissioner during the sixty-day 88790
period next following the effective date of this section. The Tax 88791
Commissioner shall process a refund application received under 88792
this section in accordance with section 5735.142 of the Revised 88793
Code, treating such an application as if it had been timely filed 88794
with the Tax Commissioner in accordance with that section. 88795

Section 557.03. A credit is hereby allowed against the 88796
additional estate tax imposed by section 5731.18 of the Revised 88797
Code on the estate of a decedent who dies on or after January 1, 88798
2002, but before the effective date of that section as amended by 88799
this act. The credit shall equal that portion of the additional 88800
estate tax imposed by section 5731.18 of the Revised Code that is 88801
over and above the additional estate tax that would have been 88802
imposed if the tax levied by division (A) of that section had been 88803
an amount equal to the maximum credit allowable by section 2011 of 88804
the Internal Revenue Code that was in effect and applicable on the 88805
date of such decedent's death for any taxes paid to any state. 88806

Section 557.04. Notwithstanding division (A)(3) of section 88807
5733.09 or section 5733.98 of the Revised Code, the credit allowed 88808
under section 5733.56 of the Revised Code to telephone companies 88809
for providing programs to aid the communicatively impaired shall 88810
be allowed in tax year 2005 so that there is full recovery of the 88811
tax credit under that section for that tax year. 88812

Section 557.06. (A) As used in this section, "net additional 88813
tax" means, in the case of a wholesale dealer, the net additional 88814
amount of tax resulting from the amendment by this act of section 88815
5743.02 of the Revised Code, less the discount allowed under 88816
section 5743.05 of the Revised Code as a commission for affixing 88817
and canceling stamps or meter impressions, that is due on all 88818

packages of Ohio stamped cigarettes and on all unaffixed Ohio 88819
cigarette tax stamps that the wholesale dealer has on hand as of 88820
the beginning of business on July 1, 2005, and, in the case of a 88821
retail dealer, means the net additional amount of tax resulting 88822
from the amendment by this act of section 5743.02 of the Revised 88823
Code that is due on all packages of Ohio stamped cigarettes and on 88824
all unaffixed Ohio cigarette tax stamps that the retail dealer has 88825
on hand as of the beginning of business on July 1, 2005. 88826

(B) In addition to the return required under section 5743.03 88827
of the Revised Code, each wholesale dealer and each retail dealer 88828
shall make and file a return on forms prescribed by the tax 88829
commissioner showing the net additional tax due and any other 88830
information that the commissioner considers necessary to apply 88831
sections 5743.01 to 5743.20 of the Revised Code in the 88832
administration of the net additional tax. On or before September 88833
30, 2005, each wholesale dealer and each retail dealer shall 88834
deliver the return to the treasurer of state, together with 88835
remittance of the net additional tax shown on the return to be 88836
due. A wholesale dealer or retail dealer may claim a credit equal 88837
to five per cent of the net additional tax shown on the return to 88838
be due if the wholesale dealer or retail dealer delivers the 88839
return required under this section to the treasurer of state on or 88840
before August 15, 2005, together with remittance of the net 88841
additional tax due after allowing for the five per cent credit. 88842
The treasurer of state shall stamp or otherwise mark on the return 88843
the date on which the return and remittance were received by the 88844
treasurer of state and also shall show on the return by stamp or 88845
otherwise the amount of the tax payment remitted with the return. 88846
Upon receipt, the treasurer of state shall immediately transmit 88847
all returns filed under this section to the commissioner. 88848

(C) Any wholesale or retail dealer who fails to file a return 88849
or remit net additional tax as required under this section shall 88850

forfeit and pay into the state treasury a late charge equal to 88851
fifty dollars or ten per cent of the net additional tax due, 88852
whichever is greater. If the net additional tax, or any portion 88853
thereof, whether determined by the commissioner or the wholesale 88854
or retail dealer, is not paid on or before the date prescribed for 88855
payment under this section, interest shall accrue on the unpaid 88856
amount at the rate per annum required by section 5703.47 of the 88857
Revised Code from the date prescribed for payment of the net 88858
additional tax to the date of payment or to the date the 88859
commissioner issues an assessment under section 5743.081 or 88860
5743.082 of the Revised Code, whichever occurs first. Interest 88861
shall be paid and collected in the same manner as the net 88862
additional tax. 88863

(D) Unpaid or unreported net additional taxes, late charges, 88864
and interest may be collected by assessment in the manner 88865
prescribed under sections 5743.081 and 5743.082 of the Revised 88866
Code. 88867

(E) All amounts collected under this section shall be 88868
considered revenue arising from the tax imposed by section 5743.02 88869
of the Revised Code. 88870

Section 557.09. (A) This section applies only to the 88871
semiannual period from July 1, 2005, to December 31, 2005. 88872

Notwithstanding any provision of Chapter 5751. of the Revised 88873
Code as enacted by this act, for purposes of making the first 88874
payment of the tax imposed under that chapter, a tax return for 88875
both calendar year and calendar quarter taxpayers for that 88876
semiannual period shall be filed not later than February 10, 2006. 88877
The semiannual tax payment for all taxpayers for that semiannual 88878
period shall be fifty dollars for the first five hundred thousand 88879
dollars in taxable gross receipts during that semiannual period. 88880
In addition, a tax is imposed on all taxable gross receipts for 88881

that semiannual period in excess of five hundred thousand dollars. 88882
Such tax shall equal the product of six-tenths of one mill per 88883
dollar (the result of rounding twenty-three per cent of two and 88884
six-tenths mills) times the remaining amount of taxable gross 88885
receipts after subtracting five hundred thousand dollars in 88886
taxable gross receipts. 88887

(B) Only persons excluded pursuant to divisions (E)(2) to 88888
(10) of section 5751.01 of the Revised Code, as enacted by this 88889
act, and persons with less than forty thousand dollars in taxable 88890
gross receipts during calendar year 2005 are not subject to this 88891
section. 88892

(C) The tax commissioner shall take the necessary steps to 88893
implement this section and use money in the commercial tax 88894
administrative fund to promote awareness of the tax imposed under 88895
this section and under Chapter 5751. of the Revised Code as 88896
enacted by this act by means of advertising and other reasonable 88897
means. 88898

Section 557.10. In lieu of the certification and crediting of 88899
money to the Recycling and Litter Prevention Fund in fiscal year 88900
2006 that would be required under section 5733.122 of the Revised 88901
Code if that section were not repealed by this act, the Director 88902
of Budget and Management, during fiscal year 2006, shall transfer 88903
\$1,500,000 from the General Revenue Fund to the Recycling and 88904
Litter Prevention Fund according to a schedule to be determined by 88905
the Director. 88906

Section 557.12. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 88907

(A) On or before the seventh day of each month of the period 88908
July 2005 through June 2007, the Tax Commissioner shall determine 88909
and certify to the Director of Budget and Management the amount to 88910
be credited, by tax, during that month to the Local Government 88911

Fund, to the Library and Local Government Support Fund, and to the 88912
Local Government Revenue Assistance Fund, respectively, under 88913
divisions (B) to (G) of this section. 88914

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 88915
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 88916
for each month in the period July 1, 2005, through June 30, 2007, 88917
from the utility excise, kilowatt-hour, corporation franchise, 88918
sales and use, and personal income taxes collected: 88919

(1) An amount shall first be credited to the Local Government 88920
Fund equal to the amount credited to that fund from that tax 88921
according to the schedule in divisions (C), (D), (E), and (F) of 88922
this section; 88923

(2) An amount shall next be credited to the Local Government 88924
Revenue Assistance Fund equal to the amount credited to that fund 88925
from that tax according to the schedule in divisions (C), (D), 88926
(E), and (F) of this section; 88927

(3) An amount shall next be credited to the Library and Local 88928
Government Support Fund equal to the amount credited to that fund 88929
from that tax according to the schedule in division (G) of this 88930
section. 88931

To the extent the amounts credited under divisions (B) 88932
through (G) of this section exceed the amounts that otherwise 88933
would have been credited under sections 5727.45, 5727.84, 5733.12, 88934
5739.21, 5741.03, and 5747.03 of the Revised Code, the amounts 88935
credited to the general revenue fund shall be reduced. To the 88936
extent the amounts credited under divisions (B) through (G) of 88937
this section are less than the amounts that otherwise would have 88938
been credited under sections 5727.45, 5727.84, 5733.12, 5739.21, 88939
5741.03, and 5747.03 of the Revised Code, the amounts credited to 88940
the general revenue fund shall be increased. 88941

(C) Pursuant to divisions (B)(1) and (2) of this section, the 88942

amounts shall be credited from the corporation franchise, sales	88943
and use, and personal income taxes to each respective fund as	88944
follows:	88945
(1) In July 2005, one hundred per cent of the amount credited	88946
in July 2004; in July 2006, one hundred per cent of the amount	88947
credited in July 2005;	88948
(2) In August 2005, one hundred per cent of the amount	88949
credited in August 2004; in August 2006, one hundred per cent of	88950
the amount credited in August 2005;	88951
(3) In September 2005, one hundred per cent of the amount	88952
credited in September 2004; in September 2006, one hundred per	88953
cent of the amount credited in September 2005;	88954
(4) In October 2005, one hundred per cent of the amount	88955
credited in October 2004; in October 2006, one hundred per cent of	88956
the amount credited in October 2005;	88957
(5) In November 2005, one hundred per cent of the amount	88958
credited in November 2004; in November 2006, one hundred per cent	88959
of the amount credited in November 2005;	88960
(6) In December 2005, one hundred per cent of the amount	88961
credited in December 2004; in December 2006, one hundred per cent	88962
of the amount credited in December 2005;	88963
(7) In January 2006, one hundred per cent of the amount	88964
credited in January 2005; in January 2007, one hundred per cent of	88965
the amount credited in January 2006;	88966
(8) In February 2006, one hundred per cent of the amount	88967
credited in February 2005; in February 2007, one hundred per cent	88968
of the amount credited in February 2006;	88969
(9) In March 2006, one hundred per cent of the amount	88970
credited in March 2005; in March 2007, one hundred per cent of the	88971
amount credited in March 2006;	88972

(10) In April 2006, one hundred per cent of the amount 88973
credited in April 2005; in April 2007, one hundred per cent of the 88974
amount credited in April 2006; 88975

(11) In May 2006, one hundred per cent of the amount credited 88976
in May 2005; in May 2007, one hundred per cent of the amount 88977
credited in May 2006; 88978

(12) In June 2006, one hundred per cent of the amount 88979
credited in June 2005; in June 2007, one hundred per cent of the 88980
amount credited in June 2006. 88981

(D) Pursuant to divisions (B)(1) and (2) of this section, 88982
from the public utility excise tax, amounts shall be credited to 88983
the Local Government Fund and the Local Government Revenue 88984
Assistance Fund as follows: 88985

(1) In July 2005 and July 2006, no amount shall be credited 88986
to the Local Government Fund and no amount shall be credited to 88987
the Local Government Revenue Assistance Fund; 88988

(2) In August 2005 and August 2006, no amount shall be 88989
credited to the Local Government Fund or to the Local Government 88990
Revenue Assistance Fund; 88991

(3) In September 2005 and September 2006, no amount shall be 88992
credited to the Local Government Fund or to the Local Government 88993
Revenue Assistance Fund; 88994

(4) In October 2005 and October 2006, thirty per cent of 88995
\$7,870,426.16 shall be credited to the Local Government Fund and 88996
thirty per cent of \$1,124,346.59 shall be credited to the Local 88997
Government Revenue Assistance Fund; 88998

(5) In November 2005 and November 2006, thirty per cent of 88999
\$1,045,731.11 shall be credited to the Local Government Fund and 89000
thirty per cent of \$149,390.15 shall be credited to the Local 89001
Government Revenue Assistance Fund; 89002

(6) In December 2005 and December 2006, thirty per cent of 89003
\$1,210,041.67 shall be credited to the Local Government Fund and 89004
thirty per cent of \$172,863.13 shall be credited to the Local 89005
Government Revenue Assistance Fund; 89006

(7) In January 2006 and January 2007, no amount shall be 89007
credited to the Local Government Fund or to the Local Government 89008
Revenue Assistance Fund; 89009

(8) In February 2006 and February 2007, thirty per cent of 89010
\$1,515,069.22 shall be credited to the Local Government Fund and 89011
thirty per cent of \$216,438.43 shall be credited to the Local 89012
Government Revenue Assistance Fund; 89013

(9) In March 2006 and March 2007, thirty per cent of 89014
\$7,859,958.57 shall be credited to the Local Government Fund and 89015
thirty per cent of \$1,122,851.24 shall be credited to the Local 89016
Government Revenue Assistance Fund; 89017

(10) In April 2006 and April 2007, no amount shall be 89018
credited to the Local Government Fund or to the Local Government 89019
Revenue Assistance Fund; 89020

(11) In May 2006 and May 2007, thirty per cent of 89021
\$3,300,718.22 shall be credited to the Local Government Fund and 89022
thirty per cent of \$471,531.17 shall be credited to the Local 89023
Government Revenue Assistance Fund; 89024

(12) In June 2006 and June 2007, thirty per cent of 89025
\$9,344,500.89 shall be credited to the Local Government Fund and 89026
thirty per cent of \$1,334,928.70 shall be credited to the Local 89027
Government Revenue Assistance Fund. 89028

(E) Pursuant to divisions (B)(1) and (2) of this section, 89029
from the kilowatt-hour tax, amounts shall be credited to the Local 89030
Government Fund and the Local Government Revenue Assistance Fund 89031
as follows: 89032

- (1) In July 2005 and July 2006, no amount shall be credited 89033
to the Local Government Fund and no amount shall be credited to 89034
the Local Government Revenue Assistance Fund; 89035
- (2) In August 2005 and August 2006, no amount shall be 89036
credited to the Local Government Fund or to the Local Government 89037
Revenue Assistance Fund; 89038
- (3) In September 2005, and September 2006, no amount shall be 89039
credited to the Local Government Fund or to the Local Government 89040
Revenue Assistance Fund; 89041
- (4) In October 2005 and October 2006, seventy per cent of 89042
\$7,870,426.16 shall be credited to the Local Government Fund and 89043
seventy per cent of \$1,124,346.59 shall be credited to the Local 89044
Government Revenue Assistance Fund; 89045
- (5) In November 2005 and November 2006, seventy per cent of 89046
\$1,045,731.11 shall be credited to the Local Government Fund and 89047
seventy per cent of \$149,390.15 shall be credited to the Local 89048
Government Revenue Assistance Fund; 89049
- (6) In December 2005 and December 2006, seventy per cent of 89050
\$1,210,041.67 shall be credited to the Local Government Fund and 89051
seventy per cent of \$172,863.13 shall be credited to the Local 89052
Government Revenue Assistance Fund; 89053
- (7) In January 2006 and January 2007, no amount shall be 89054
credited to the Local Government Fund or to the Local Government 89055
Revenue Assistance Fund; 89056
- (8) In February 2006 and February 2007, seventy per cent of 89057
\$1,515,069.22 shall be credited to the Local Government Fund and 89058
seventy per cent of \$216,438.43 shall be credited to the Local 89059
Government Revenue Assistance Fund; 89060
- (9) In March 2006 and March 2007, seventy per cent of 89061
\$7,859,958.57 shall be credited to the Local Government Fund and 89062

seventy per cent of \$1,122,851.24 shall be credited to the Local
Government Revenue Assistance Fund;

89063
89064

(10) In April 2006 and April 2007, no amount shall be
credited to the Local Government Fund or to the Local Government
Revenue Assistance Fund;

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(11) In May 2006 and May 2007, seventy per cent of
\$3,300,718.22 shall be credited to the Local Government Fund and
seventy per cent of \$471,531.17 shall be credited to the Local
Government Revenue Assistance Fund;

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(12) In June 2006 and June 2007, seventy per cent of
\$9,344,500.89 shall be credited to the Local Government Fund and
seventy per cent of \$1,334,928.70 shall be credited to the Local
Government Revenue Assistance Fund.

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(F) Notwithstanding the amounts required to be credited
pursuant to division (C) of this section, the amount credited each
month to the Local Government Fund and the Local Government
Revenue Assistance Fund from the personal income tax shall be net
of a reduction. The reduction shall equal the amount by which the
monthly distributions required by division (I) of this section are
below the total amount that otherwise would have been credited for
that month pursuant to divisions (C), (D), and (E) of this
section.

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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:

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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;

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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

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the amount credited in August 2005;	89093
(3) In September 2005, one hundred per cent of the amount	89094
credited in September 2004; in September 2006, ninety-five per	89095
cent of the amount credited in September 2005;	89096
(4) In October 2005, one hundred per cent of the amount	89097
credited in October 2004; in October 2006, ninety-five per cent of	89098
the amount credited in October 2005;	89099
(5) In November 2005, one hundred per cent of the amount	89100
credited in November 2004; in November 2006, ninety-five per cent	89101
of the amount credited in November 2005;	89102
(6) In December 2005, ninety-five per cent of the amount	89103
credited in December 2004; in December 2006, one hundred per cent	89104
of the amount credited in December 2005;	89105
(7) In January 2006, ninety-five per cent of the amount	89106
credited in January 2005; in January 2007, one hundred per cent of	89107
the amount credited in January 2006;	89108
(8) In February 2006, ninety-five per cent of the amount	89109
credited in February 2005; in February 2007, one hundred per cent	89110
of the amount credited in February 2006;	89111
(9) In March 2006, ninety-five per cent of the amount	89112
credited in March 2005; in March 2007, one hundred per cent of the	89113
amount credited in March 2006;	89114
(10) In April 2006, ninety-five per cent of the amount	89115
credited in April 2005; in April 2007, one hundred per cent of the	89116
amount credited in April 2006;	89117
(11) In May 2006, ninety-five per cent of the amount credited	89118
in May 2005; in May 2007, one hundred per cent of the amount	89119
credited in May 2006;	89120
(12) In June 2006, ninety-five per cent of the amount	89121
credited in June 2005; in June 2007, one hundred per cent of the	89122

amount credited in June 2006. 89123

(H) The total amount credited to the Local Government Fund 89124
and the Local Government Revenue Assistance Fund in each month 89125
during the period July 2005 through November 2005 shall be 89126
distributed by the tenth day of the immediately succeeding month 89127
in the following manner, and the total amount credited to the 89128
Library and Local Government Support Fund in each month during the 89129
period July 2005 through June 2007 shall be distributed by the 89130
tenth day of the immediately succeeding month in the following 89131
manner: 89132

(1) Each county undivided local government fund shall receive 89133
a distribution from the Local Government Fund based on its 89134
proportionate share of the total amount received from the fund in 89135
such respective month for the period August 1, 2004, through 89136
December 31, 2004. 89137

(2) Each municipal corporation receiving a direct 89138
distribution from the Local Government Fund shall receive a 89139
distribution based on its proportionate share of the total amount 89140
received from the fund in such respective month for the period 89141
August 1, 2004, through December 31, 2004. 89142

(3) Each county undivided local government revenue assistance 89143
fund shall receive a distribution from the Local Government 89144
Revenue Assistance Fund based on its proportionate share of the 89145
total amount received from the fund in such respective month for 89146
the period August 1, 2004, through December 31, 2004. 89147

(4) Each county undivided library and local government 89148
support fund shall receive a distribution from the Library and 89149
Local Government Support Fund based on its proportionate share of 89150
the total amount received from the fund in such respective month 89151
for the period August 1, 2004, through July 31, 2005. 89152

(I) Notwithstanding any other provision of law to the 89153

contrary, the total amount credited to the Local Government Fund 89154
and the Local Government Revenue Assistance Fund in each month 89155
during the period December 2005 through June 2007 shall be 89156
distributed by the tenth day of the immediately succeeding month 89157
in the following manner: 89158

(1) Each county undivided local government fund and each 89159
county undivided local government revenue assistance fund shall 89160
receive the "countywide township and village distribution" for 89161
each respective fund, as determined under divisions (I)(1)(a) and 89162
(b) of this section. 89163

(a) The countywide township and village distribution is 89164
determined as follows: For each county undivided local government 89165
fund and each county undivided local government revenue assistance 89166
fund, the Tax Commissioner shall identify the proportionate shares 89167
of the distributions made from each fund to townships and villages 89168
located partially or entirely in that county, as reported by the 89169
county auditor for calendar year 2005 under division (J) of 89170
section 5747.51 and division (I) of section 5747.62 of the Revised 89171
Code, respectively. For each county and each fund, the Tax 89172
Commissioner shall compute the sum of the proportionate shares of 89173
distributions to townships and villages, and shall next multiply 89174
the sum for each fund by the amount distributed each month to the 89175
county undivided local government fund from the local government 89176
fund and by the amount distributed each month to the county 89177
undivided local government revenue assistance fund from the local 89178
government revenue assistance fund, respectively, during the 89179
period January 2005 through December 2005. 89180

(b) The Tax Commissioner shall multiply each product derived 89181
in division (I)(1)(a) of this section by one hundred per cent to 89182
yield that month's countywide township and village distribution 89183
for each fund and each county. 89184

(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), (I)(3) and (I)(5) of this section, each county undivided local government fund and each county undivided local government revenue assistance fund shall receive the "county distribution" computed for each fund under divisions (I)(2)(a) and (b) of this section.

(a) The monthly distribution made from the county undivided local government fund to each county as a subdivision during the period January 2005 through December 2005, excluding dealer in intangibles tax distributions, multiplied by ninety per cent.

(b) The monthly distribution made from the county undivided local government revenue assistance fund to each county as a subdivision during the period January 2005 through December 2005, multiplied by ninety per cent.

(3) In addition to the distributions provided in divisions (I)(1), (I)(2), 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)(3)(a) and (b) of this section.

(a) The sum of the monthly product calculated pursuant to division (I)(1)(a) of this section, the monthly distribution to

the county as a subdivision from the county undivided local
government fund, excluding dealer in intangibles tax
distributions, during the period January 2005 through December
2005, and the monthly distribution made from the county undivided
local government fund, excluding dealer in intangibles tax
distributions, to municipal corporations not otherwise included in
division (I)(1)(a) of this section during the period January 2005
through December 2005 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 multiplied by
eighty per cent.

(b) The sum of the monthly product calculated pursuant to
division (I)(1)(a) of this section, the monthly distribution to
the county as a subdivision from the undivided local government
revenue assistance fund during the period January 2005 through
December 2005, and the monthly distribution made from the county
undivided local government revenue assistance fund to municipal
corporations not otherwise included in division (I)(1)(a) of this
section during the period January 2005 through December 2005 shall
be subtracted from the county undivided local government revenue
assistance fund distribution made from the local government
revenue assistance fund in such respective month during the period
January 2005 through December 2005. The difference shall be
multiplied by ninety per cent.

(4) Each municipal corporation identified by the Tax
Commissioner as a village under division (I)(1)(c) of this section
shall receive in each month an amount directly from the Local
Government Fund equal to one hundred per cent of the amount the
municipal corporation received directly from that fund in such
respective month during the period January 1, 2005, through
December 31, 2005.

The Tax Commissioner shall compute for each municipal corporation, excluding villages receiving amounts pursuant to division (I)(4) of this section, an "excess amount," which amount equals the extent to which such municipal corporation's distributions received directly from the Local Government Fund during calendar year 2005 and the distributions received from the county undivided local government fund, excluding dealer in intangibles tax distributions, during calendar year 2005 exceeded \$1,000,000. If a positive excess amount is computed for a municipal corporation, then the Tax Commissioner shall divide the excess amount by the sum of the amount received by that municipal corporation directly from the Local Government Fund during calendar year 2005 plus the amount that municipal corporation received from the county undivided local government fund, excluding dealer in intangibles tax distributions, during calendar year 2005. The result of that calculation shall be the "percentage excess" for the subject municipal corporation. The "below-threshold percentage" equals the percentage excess subtracted from one. Any municipal corporation for which a percentage excess is computed shall receive a monthly distribution directly from the Local Government Fund equal to the sum of (1) the product derived by multiplying the distribution received directly from the Local Government Fund by the municipal corporation in such month of calendar year 2005 times the below-threshold percentage, multiplied by ninety per cent, and (2) the product derived by multiplying the distribution received directly from the Local Government Fund by the municipal corporation in such month of calendar year 2005 times the percentage excess, multiplied by eighty per cent. Except for villages receiving amounts pursuant to division (I)(4) of this section, each municipal corporation whose excess amount computed under this division is not a positive number and a percentage excess has therefore not been computed shall receive in each month

an amount directly from the Local Government Fund that is equal to 89281
ninety per cent of the amount the municipal corporation received 89282
directly from that fund in such respective month during the period 89283
January 1, 2005, through December 31, 2005. 89284

(5) Each county undivided local government fund and each 89285
county undivided local government revenue assistance fund shall 89286
receive the total "city distribution" for each respective county 89287
fund, as determined under divisions (I)(5)(a) and (b) of this 89288
section. Notwithstanding divisions (C) to (I) of section 5747.51 89289
or section 5747.53 of the Revised Code to the contrary, each city 89290
shall receive from the county undivided local government fund and 89291
from the county undivided local government revenue assistance fund 89292
its monthly city distribution determined under this section. The 89293
city distribution is determined as follows: 89294

(a) For each municipal corporation otherwise not receiving a 89295
distribution under division (I)(1) of this section and that 89296
received a distribution from the county undivided local government 89297
fund during calendar year 2005, the Tax Commissioner shall 89298
identify the percentage excess and below-threshold percentage 89299
determined under division (I)(4) of this section. If a percentage 89300
excess has been computed for a municipal corporation under 89301
division (I)(4) of this section, its monthly distribution from the 89302
county undivided local government fund shall equal the sum of (1) 89303
the product derived by multiplying the amount distributed to the 89304
municipal corporation from the fund in such month of calendar year 89305
2005, excluding any dealer in intangible tax distributions, by the 89306
below-threshold percentage, multiplied by ninety per cent, and (2) 89307
the product derived by multiplying the amount distributed to the 89308
municipal corporation from the fund in such month of calendar year 89309
2005, excluding any dealer in intangibles tax distributions, by 89310
the percentage excess, multiplied by eighty per cent. Each 89311
municipal corporation whose excess amount is not a positive number 89312

and for which a percentage excess was not computed shall receive 89313
the amount it received from the county undivided local government 89314
fund in such month of calendar year 2005, excluding any dealer in 89315
intangibles tax distributions, multiplied by ninety per cent. 89316

(b) Each municipal corporation not otherwise receiving a 89317
distribution under division (I)(1) of this section shall receive 89318
from the county undivided local government revenue assistance fund 89319
the same amount it received from that fund in such month of 89320
calendar year 2005, multiplied by eighty per cent. 89321

(J) Notwithstanding the distribution method prescribed by 89322
divisions (C) to (I) of section 5747.51 or by section 5747.53 of 89323
the Revised Code, during the period January 1, 2006, through July 89324
31, 2007, the amounts allocated monthly to each county undivided 89325
local government fund from the local government fund shall be 89326
distributed among all subdivisions located wholly or partially in 89327
the county in the manner prescribed by division (J) of this 89328
section. 89329

(1) The countywide township and village distribution shall be 89330
distributed among townships and villages based on their relative 89331
proportionate shares of the sum of the township and village 89332
proportionate shares described in division (I)(1)(a) of this 89333
section. 89334

(2) The other taxing unit distribution shall be distributed 89335
to subdivisions not otherwise included in divisions (J)(1), 89336
(J)(3), and (J)(4) of this section based on their relative 89337
proportionate shares of the sum of proportionate shares for such 89338
subdivisions based on the calendar year 2005 report submitted by 89339
the county auditor to the Tax Commissioner pursuant to division 89340
(J) of section 5747.51 of the Revised Code. 89341

(3) The city distribution shall be distributed according to 89342
division (I)(5) of this section. 89343

(4) The county distribution shall be distributed according to 89344
division (I)(2) of this section. 89345

(5) Dealer in intangibles taxes distributed to each county 89346
undivided local government fund shall be distributed among 89347
subdivisions based on each subdivision's relative share of the 89348
total distributions made from the county undivided local 89349
government fund according to divisions (J)(1) to (3) of this 89350
section. 89351

(6) By December 20, 2005, the Tax Commissioner shall make 89352
such information available to each county auditor deemed 89353
reasonable and appropriate for the purposes of making the 89354
distributions required by this section. 89355

(7) Until the county auditor provides the Tax Commissioner 89356
the report required by division (J) of section 5747.51 for 89357
calendar year 2005, the amounts distributed to the county 89358
undivided local government fund that are subsequently apportioned 89359
to subdivisions under this section shall be based on the most 89360
recent year for which a report has been submitted. If a county 89361
auditor report for a calendar year preceding calendar year 2005 is 89362
used to make the distributions under this section and the county 89363
auditor report for calendar year 2005 report is subsequently 89364
submitted to the Tax Commissioner, there shall be no adjustment 89365
for any month when such pre-calendar year 2005 report information 89366
was used. 89367

(K) Notwithstanding the distribution method prescribed by 89368
divisions (C) to (H) of section 5747.62 or by section 5747.63 of 89369
the Revised Code, during the period January 1, 2006, through July 89370
31, 2007, the amounts allocated monthly to each county undivided 89371
local government revenue assistance fund from the local government 89372
revenue assistance fund shall be distributed among all 89373
subdivisions located wholly or partially in the county in the 89374

manner prescribed by division (K) of this section. 89375

(1) The countywide township and village distribution shall be 89376
distributed among townships and villages based on their relative 89377
proportionate shares of the sum of the township and village 89378
proportionate shares described in division (I)(1)(a) of this 89379
section. 89380

(2) The other taxing unit distribution shall be distributed 89381
to subdivisions not otherwise included in division (K)(1), (K)(3), 89382
and (K)(4) of this section based on their relative proportionate 89383
shares of the sum of proportionate shares for such subdivisions 89384
based on the calendar year 2005 report submitted by the county 89385
auditor to the Tax Commissioner pursuant to division (I) of 89386
section 5747.62 of the Revised Code. 89387

(3) The city distribution shall be distributed according to 89388
division (I)(5) of this section. 89389

(4) The county distribution shall be distributed according to 89390
division (I)(2) of this section. 89391

(5) By December 20, 2005, the Tax Commissioner shall make 89392
such information available to each county auditor deemed 89393
reasonable and appropriate for the purposes of making the 89394
distributions required by this section. 89395

(6) Until the county auditor provides the Tax Commissioner 89396
the report required by division (I) of section 5747.62 for 89397
calendar year 2005, the amounts distributed to the county 89398
undivided local government revenue assistance fund that are 89399
subsequently apportioned to subdivisions under this section shall 89400
be based on the most recent year for which a report has been 89401
submitted. If a county auditor report for a calendar year 89402
preceding calendar year 2005 is used to make the distributions 89403
under this section and the county auditor report for calendar year 89404
2005 report is subsequently submitted to the Tax Commissioner, 89405

there shall be no adjustment for any month when such pre-calendar year 2005 report information was used. 89406
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(L) For the 2005, 2006, and 2007 distribution years, the Tax Commissioner is not required to issue the certifications otherwise required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of the Revised Code, but shall provide to each county auditor by the twentieth day of July 2005, July 2006, and July 2007 an estimate of the amounts to be received by the county in the ensuing year from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section and any pertinent section of the Revised Code. For the 2006 distribution year, the Tax Commissioner shall provide by December 20, 2005, a revised estimate of the amounts to be received by the county in the ensuing year from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section and any pertinent section of the Revised Code. At the discretion of the Tax Commissioner, the Tax Commissioner may report to each county auditor additional revised estimates of the 2005, 2006, or 2007 distributions at any time during the period July 1, 2005, through July 31, 2007. 89408
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(M) During the period July 1, 2005, through July 31, 2007, the Director of Budget and Management shall issue such directives to state agencies that are necessary to ensure that the appropriate amounts are distributed to the Local Government Fund, to the Local Government Revenue Assistance Fund, and to the Library and Local Government Support Fund. 89427
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Section 557.13. (A) It is the intent of the General Assembly that section 5751.02 of the Revised Code, as enacted by this act, be applied in a manner that is consistent with and identical to the situsing provisions that apply to the corporation franchise 89433
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tax. 89437

(B) Section 5751.02 of the Revised Code, as enacted by this 89438
act and relating to the situsing of gross receipts, shall be 89439
interpreted and applied by the Tax Commissioner in a manner that 89440
is consistent with the body of case law addressing the situsing of 89441
sales for purposes of the sales factor as determined under Chapter 89442
5733. of the Revised Code, and in a manner that is consistent with 89443
the Tax Commissioner's prior treatment of the corporation 89444
franchise tax sales factor situsing law for taxpayers under that 89445
chapter. 89446

(C) For purposes of section 5751.02 of the Revised Code, as 89447
enacted by this act, tangible personal property that is delivered 89448
into a foreign trade zone located in Ohio to a person within such 89449
foreign trade zone, solely for purposes of further delivery out of 89450
this state and without regard to the passage of title and to 89451
repackaging for further shipping purposes, shall be sitused to the 89452
location at which the person or person's affiliated customer 89453
completes the delivery of the property to locations outside of 89454
Ohio. For purpose of this section, "person's affiliated customer" 89455
means any person that is a member of the consolidated elected 89456
taxpayer of which the person that initially received such property 89457
in the foreign trade zone is also a member. 89458

Section 557.15. The amendment by this act of sections 319.302 89459
and 323.152 of the Revised Code first applies in tax year 2005. 89460

Section 557.21. The amendment by this act of section 5727.81 89461
of the Revised Code first applies to the measurement period that 89462
includes July 1, 2005. 89463

Section 557.24. The amendment by this act of sections 89464
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the 89465

Revised Code, and the repeal by this act of section 5731.20 of the Revised Code, applies to estates of decedents dying on or after the effective date of those sections as amended by this act.

Section 557.27. The amendment by this act of section 5733.40 of the Revised Code applies to taxable years ending on or after the effective date of this act.

Section 557.30. Except as otherwise provided in division (A)(18) of section 5747.01 and division (A) of section 5747.02 of the Revised Code, the amendment by this act of sections 5747.01 and 5747.02 of the Revised Code applies to taxable years ending on or after the effective date of this section.

Section 557.33. The amendment by this act of section 5747.05 of the Revised Code applies to taxable years ending on or after the effective date of this section.

Section 560.03. There is hereby created the Ohio Military Reserve Homeland Security Study Commission to evaluate the role and effectiveness of the Ohio Military Reserve. The Commission shall consist of seven members: the Chairperson of the House Commerce and Labor Committee, who shall serve as chairperson of the Commission, two members of the House of Representatives whom the Speaker of the House of Representatives shall appoint, two members of the Senate whom the President of the Senate shall appoint, the Adjutant General or a representative the Adjutant General designates, and the Director of Public Safety or a representative the Director designates. The chairperson shall call the meetings of the Commission. The Commission shall report its findings to the General Assembly before January 1, 2006.

Section 563.03. It is the intention of the General Assembly

that the amendments made by this act to sections 3319.081 and 89494
3319.17 of the Revised Code, and the enactment by this act of 89495
section 3319.172 of the Revised Code, shall not affect collective 89496
bargaining agreements between public employers and public 89497
employees entered into prior to the effective date of this 89498
section. 89499

Section 566.03. As used in this section, "municipal public 89500
safety director" has the same meaning as in section 145.01 of the 89501
Revised Code, as amended by this act. 89502

Not later than ninety days after the effective date of this 89503
section, each municipal public safety director who is a member of 89504
the Public Employees Retirement System shall indicate to the 89505
retirement system, on a form supplied by the retirement system, a 89506
choice of whether to receive benefits under division (A) of 89507
section 145.33 of the Revised Code or under division (B) of that 89508
section. 89509

Section 569.03. (A) As used in this section, "appointing 89510
authority" has the same meaning as in section 124.01 of the 89511
Revised Code, and "exempt employee" has the same meaning as in 89512
section 124.152 of the Revised Code. 89513

(B) Notwithstanding section 124.181 of the Revised Code both 89514
of the following apply: 89515

(1) In cases where no vacancy exists, an appointing authority 89516
may, with the written consent of an exempt employee, assign duties 89517
of a higher classification for a period of time not to exceed two 89518
years to that exempt employee, and that exempt employee shall 89519
receive compensation at a rate commensurate with the duties of the 89520
higher classification. 89521

(2) If necessary, employees exempt from collective bargaining 89522

who are assigned to duties within their agency to maintain 89523
operations during the Ohio Administrative Knowledge System (OAKS) 89524
implementation may agree to a temporary assignment that exceeds 89525
the two-year limit. 89526

Section 606.03. If any item of law that constitutes the whole 89527
or part of a codified or uncodified section of law contained in 89528
this act, or if any application of any item of law that 89529
constitutes the whole or part of a codified or uncodified section 89530
of law contained in this act, is held invalid, the invalidity does 89531
not affect other items of law or applications of items of law that 89532
can be given effect without the invalid item of law or 89533
application. To this end, the items of law of which the codified 89534
and uncodified sections contained in this act are composed, and 89535
their applications, are independent and severable. 89536

Section 609.03. An item of law, other than an amending, 89537
enacting, or repealing clause, that composes the whole or part of 89538
an uncodified section contained in this act has no effect after 89539
June 30, 2007, unless its context clearly indicates otherwise. 89540

Section 612.03. Except as otherwise specifically provided in 89541
this act, the codified sections of law amended or enacted in this 89542
act, and the items of law of which the codified sections of law 89543
amended or enacted in this act are composed, are subject to the 89544
referendum. Therefore, under Ohio Constitution, Article II, 89545
Section 1c and section 1.471 of the Revised Code, the codified 89546
sections of law amended or enacted by this act, and the items of 89547
law of which the codified sections of law as amended or enacted by 89548
this act are composed, take effect on the ninety-first day after 89549
this act is filed with the Secretary of State. If, however, a 89550
referendum petition is filed against any such codified section of 89551
law as amended or enacted by this act, or against any item of law 89552

of which any such codified section of law as amended or enacted by 89553
this act is composed, the codified section of law as amended or 89554
enacted, or item of law, unless rejected at the referendum, takes 89555
effect at the earliest time permitted by law. 89556

Section 612.06. Except as otherwise specifically provided in 89557
this act, the repeal by this act of a codified section of law is 89558
subject to the referendum. Therefore, under Ohio Constitution, 89559
Article II, Section 1c and section 1.471 of the Revised Code, the 89560
repeal by this act of a codified section of law takes effect on 89561
the ninety-first day after this act is filed with the Secretary of 89562
State. If, however, a referendum petition is filed against any 89563
such repeal, the repeal, unless rejected at the referendum, takes 89564
effect at the earliest time permitted by law. 89565

Section 612.09. The sections of law amended, enacted, or 89566
repealed by this act that are listed in this section are subject 89567
to the referendum. Therefore, under Ohio Constitution, Article II, 89568
Section 1c and section 1.471 of the Revised Code, the sections, 89569
and the items of law of which they are composed, take effect as 89570
specified in this section. If, however, a referendum petition is 89571
filed against any such section as amended, enacted, or repealed, 89572
or against any item of law of which any such section as amended or 89573
enacted is composed, the section as amended, enacted, or repealed 89574
goes into effect at the earliest time permitted by law that is on 89575
or after the effective date specified in this section. 89576

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 89577
323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 89578
2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3702.74, 89579
4123.27, 4705.09, 4731.65, 4731.71, 4736.11, 5101.181, 5101.241, 89580
5101.26, 5101.31, 5101.36, 5104.38, 5107.26, 5110.01, 5110.05, 89581
5111.021 (5111.022), 5111.022 (5111.023), 5111.023 (5111.0115), 89582

5111.025, 5111.062, 5111.10, 5111.85, 5111.851, 5111.852, 89583
5111.853, 5111.854, 5111.855, 5111.856, 5111.89, 5111.891, 89584
5111.892, 5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 89585
5112.17, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 89586
5115.22, 5115.23, and 5119.61 of the Revised Code take effect 89587
October 1, 2005. 89588

Sections 4753.03, 4753.06, 4753.071, 4753.08, 4753.09, 89589
5107.05, 5107.30, and 5107.301 of the Revised Code take effect 89590
January 1, 2006. 89591

Sections 3301.0710 and 3301.0714 of the Revised Code take 89592
effect July 1, 2006. 89593

Section 612.12. Sections 101.391, 108.05, 109.57, 109.91, 89594
120.36, 121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 89595
123.17, 125.11, 125.60, 125.601, 125.602, 125.603, 125.604, 89596
125.605, 125.606, 125.607, 125.608, 125.609, 125.6010, 125.6011, 89597
125.6012, 125.831, 125.832, 126.25, 131.02, 133.09, 141.011, 89598
141.04, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 181.251 89599
(5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 89600
181.55 (5502.65), 181.56 (5502.66), 307.86, 339.72, 339.88, 89601
731.14, 731.141, 742.59, 901.43, 901.44, 905.32, 905.33, 905.331, 89602
905.36, 905.37, 905.38, 905.381, 905.50, 905.66, 907.16, 911.02, 89603
913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 89604
923.45, 923.46, 927.69, 1327.511, 1327.62, 1327.70, 1327.71, 89605
1327.99, 1502.02, 1515.14, 1541.03, 1713.03, 2113.041, 2151.416, 89606
2152.74, 2901.07, 2923.25, 3107.10, 3125.191, 3301.311, 3301.32, 89607
3301.86, 3301.88, 3310.01, 3310.02, 3310.03, 3310.04, 3310.05, 89608
3310.06, 3310.07, 3310.08, 3310.09, 3310.10, 3310.13, 3310.14, 89609
3310.16, 3310.17, 3313.975, 3313.976, 3313.977, 3313.978, 3313.98, 89610
3314.013, 3314.015, 3314.021, 3314.06, 3314.061, 3314.084, 89611
3314.13, 3314.27, 3314.28, 3316.043, 3317.01, 3317.013, 3317.016, 89612
3317.017, 3317.02, 3317.022, 3317.023, 3317.026, 3317.027, 89613

3317.028, 3317.029, 3317.0216, 3317.0217, 3317.03, 3317.031, 89614
3317.05, 3317.052, 3317.053, 3317.063, 3317.081, 3317.10, 3317.16, 89615
3317.20, 3317.201, 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 89616
(3318.49), 3318.33, 3319.06, 3323.091, 3323.14, 3323.16, 3323.19, 89617
3325.11, 3325.12, 3325.16, 3325.17, 3333.28, 3334.02, 3334.19, 89618
3365.01, 3365.02, 3701.021, 3701.073, 3701.146, 3702.141, 3702.68, 89619
3702.83, 3709.29, 3709.34, 3712.03, 3714.073, 3715.04, 3721.011, 89620
3721.03, 3721.032, 3721.07, 3721.15, 3721.21, 3721.541, 3734.57, 89621
3734.901, 3734.9010, 3743.57, 3745.015, 3745.11, 3745.114, 89622
3748.07, 3748.13, 3770.061, 3793.09, 3901.021, 3901.17, 3905.36, 89623
4112.12, 4115.32, 4115.34, 4115.36, 4511.75, 4519.02, 4519.09, 89624
4723.32, 4723.61, 4723.62, 4723.621, 4723.63 (4723.91), 4723.64, 89625
4723.65, 4723.66, 4723.67, 4723.68, 4723.69, 4736.12, 4905.10, 89626
4911.18, 4973.171, 5101.07, 5101.071, 5101.21, 5101.46, 5101.461, 89627
5101.821, 5104.01, 5104.32, 5110.352, 5111.019, 5111.061, 89628
5111.082, 5111.11, 5111.111, 5111.112 (5111.113), 5111.113 89629
(5111.114), 5111.16, 5111.161, 5111.162, 5111.163, 5111.164, 89630
5111.17, 5111.176, 5111.19, 5111.191, 5111.98, 5112.30, 5112.341, 89631
5120.09, 5120.51, 5139.01, 5502.01, 5540.01, 5540.032, 5540.09, 89632
5731.39, and 6109.21 of the Revised Code as amended or enacted by 89633
this act, and the items of law of which such sections as amended 89634
or enacted by this act are composed, are not subject to the 89635
referendum. Therefore, under Ohio Constitution, Article II, 89636
Section 1d and section 1.471 of the Revised Code, such sections as 89637
amended or enacted by this act, and the items of law of which such 89638
sections as amended or enacted by this act are composed, go into 89639
immediate effect when this act becomes law. 89640

Section 612.12.01. The enactment by this act of new section 89641
4723.63 of the Revised Code, and the items of which it is 89642
composed, are not subject to the referendum. Therefore, under Ohio 89643
Constitution, Article II, Section 1d and section 1.471 of the 89644

Revised Code, the new section, and the items of which it is 89645
composed, go into immediate effect when this act becomes law. 89646

Section 612.12.03. New sections 3317.012, 5111.02, and 89647
5111.112 of the Revised Code as enacted by this act, and the items 89648
of law of which such sections as enacted by this act are composed, 89649
are not subject to the referendum. Therefore, under Ohio 89650
Constitution, Article II, Section 1d and section 1.471 of the 89651
Revised Code, such sections as enacted by this act, and the items 89652
of law of which such sections as enacted by this act are composed, 89653
go into immediate effect when this act becomes law. 89654

Section 612.15. The repeal by this act of sections 181.53, 89655
339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 89656
3301.37, 3301.38, 3301.85, 3301.87, 3317.012, 3317.0212, and 89657
3317.0213 of the Revised Code is not subject to the referendum. 89658
Therefore, under Ohio Constitution, Article II, Section 1d and 89659
section 1.471 of the Revised Code, the repeals go into immediate 89660
effect when this act becomes law. 89661

Section 612.18. The sections of law amended, enacted, or 89662
repealed by this act that are listed in this section are not 89663
subject to the referendum. Therefore, under Ohio Constitution, 89664
Article II, Section 1d and section 1.471 of the Revised Code, the 89665
sections as amended, enacted, or repealed, and the items of law of 89666
which such sections as amended or enacted by this act are 89667
composed, go into effect as specified in this section. 89668

Sections 125.05, 140.01, 183.28, 3301.80, 3314.074, 3317.06, 89669
3317.50, 3317.51, 3319.22, 3319.235, 3323.021, 3353.01, 3353.02, 89670
3353.03, 3353.04, 3353.06, 3353.07, 3704.035, 3704.14, 3704.142, 89671
3704.143, 3704.17, 3704.99, 3721.01, 3721.50, 3721.51, 3721.511, 89672
3721.52, 3721.56, 3721.561, 3721.58, 3722.01, 3722.02, 4117.24, 89673
4503.103, 5111.041, 5111.042, 5111.20, 5111.21, 5111.22, 5111.221, 89674

5111.222, 5111.23, 5111.231 (5111.232), 5111.234, 5111.235, 89675
5111.24, 5111.241, 5111.242, 5111.25, 5111.251, 5111.254, 89676
5111.255, 5111.256, 5111.257 (5111.258), 5111.26, 5111.261, 89677
5111.263, 5111.264, 5111.265, 5111.266, 5111.27, 5111.28, 5111.29, 89678
5111.291, 5111.30, 5111.31, 5111.32, 5111.33, 5111.34, 5111.871, 89679
5112.31, 5123.01, 5123.041, 5123.045, 5123.046, 5123.047, 89680
5123.048, 5123.049, 5123.0412, 5123.16, 5123.34, 5123.41, 5123.71, 89681
5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 89682
5126.056, 5126.057, 5126.12, 5552.01, and 5705.091 of the Revised 89683
Code take effect July 1, 2005. 89684

New sections 3353.02, 3353.03, 3704.14, 5111.231, 5111.257, 89685
and 5123.048 of the Revised Code take effect July 1, 2005. 89686

Section 612.20. Section 5111.262 of the Revised Code is not 89687
subject to the referendum, and therefore, under Ohio Constitution, 89688
Article II, Section 1d and section 1.471 of the Revised Code, 89689
takes effect July 1, 2005. 89690

Section 612.21. The amendment or enactment by this act of 89691
sections 122.17, 122.171, 140.08, 150.07, 150.10, 319.302, 89692
323.152, 325.31, 1548.06, 2921.13, 2927.023, 4301.43, 4505.06, 89693
5703.052, 5703.053, 5703.057, 5703.26, 5703.47, 5703.50, 5703.70, 89694
5703.99, 5707.031, 5711.16, 5711.21, 5711.28, 5715.24, 5719.041, 89695
5725.19, 5725.32, 5727.01, 5727.02, 5727.031, 5727.06, 5727.08, 89696
5727.10, 5727.11, 5727.111, 5727.12, 5727.23, 5727.241, 5727.47, 89697
5727.81, 5727.812, 5727.82, 5727.99, 5728.01, 5728.02, 5728.03, 89698
5728.04, 5728.06, 5728.08, 5728.99, 5729.032, 5729.08, 5731.01, 89699
5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 89700
5731.41, 5731.99, 5733.01, 5733.33, 5733.351, 5733.352, 5733.40, 89701
5733.41, 5733.49, 5733.98, 5733.99, 5735.99, 5737.03, 5739.025, 89702
5739.034, 5739.035, 5739.10, 5739.99, 5741.99, 5743.01, 5743.03, 89703
5743.031, 5743.05, 5743.071, 5743.072, 5743.08, 5743.10, 5743.111, 89704

5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 89705
5743.71, 5743.99, 5747.02, 5747.05, 5747.056, 5747.08, 5747.212, 89706
5747.331, 5747.80, 5747.98, 5747.99, 5751.01, 5751.011, 5751.012, 89707
5751.013, 5751.02, 5751.03, 5751.031, 5751.032, 5751.033, 5751.04, 89708
5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 89709
5751.10, 5751.11, 5751.12, 5751.20, 5751.21, 5751.22, 5751.23, 89710
5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 5751.98, and 5751.99 89711
of the Revised Code provides for or is essential to implementation 89712
of a tax levy. Therefore, under Ohio Constitution, Article II, 89713
Section 1d, the amendments and enactments, and the items of which 89714
they are composed, are not subject to the referendum and go into 89715
immediate effect when this act becomes law. 89716

Section 612.24. The repeal by this act of section 5731.20 of 89717
the Revised Code provides for or is essential to implementation of 89718
a tax levy. Therefore, under Ohio Constitution, Article II, 89719
Section 1d, the repeal is not subject to the referendum and goes 89720
into immediate effect when this act becomes law. 89721

Section 612.27. The amendment, enactment, or repeal by this 89722
act of the sections of law that are listed in this section 89723
provides for or is essential to implementation of a tax levy. 89724
Therefore, under Ohio Constitution, Article II, Section 1d, the 89725
amendments, enactments, and repeals, and the items of which any 89726
such amendment or enactment is composed, are not subject to the 89727
referendum and go into effect as specified in this section. 89728

Sections 5703.80, 5733.065, 5733.066, 5733.122, 5739.033, 89729
5739.09, 5743.02, 5743.32, and 5743.33 of the Revised Code take 89730
effect July 1, 2005. 89731

Sections 5739.012, 5739.021, 5739.026, 5739.03, 5739.16, and 89732
5741.16 of the Revised Code take effect January 1, 2006. 89733

Section 612.30. (A) Except as otherwise provided in division 89734
(B) of this section, the amendments by this act to section 127.16 89735
of the Revised Code are not subject to the referendum. Therefore, 89736
under Ohio Constitution, Article II, Section 1d and section 1.471 89737
of the Revised Code, the amendments take effect July 1, 2005. 89738

(B) The amendment to division (D)(2) of section 127.16 of the 89739
Revised Code is subject to the referendum. Therefore, under Ohio 89740
Constitution, Article II, Section 1c and section 1.471 of the 89741
Revised Code, the amendment takes effect October 1, 2005. If, 89742
however, a referendum petition is filed against the amendment, the 89743
amendment, unless rejected at the referendum, takes effect at the 89744
earliest time permitted by law that is on or after the effective 89745
date specified in this division. 89746

Section 612.31. (A) Except as otherwise provided in division 89747
(B) of this section, the amendments by this act to section 307.695 89748
of the Revised Code are subject to the referendum. Therefore, 89749
under Ohio Constitution, Article II, Section 1c and section 1.471 89750
of the Revised Code, the amendments go into effect on the 89751
ninety-first day after this act is filed with the Secretary of 89752
State. If, however, a referendum petition is filed against the 89753
amendments, the amendments, unless rejected at the referendum, 89754
take effect at the earliest time permitted by law. 89755

(B) The amendments to section 307.695 of the Revised Code 89756
relating to community improvement corporations provide for or are 89757
essential to implementation of a tax levy. Therefore, under Ohio 89758
Constitution, Article II, Section 1d, the amendments take effect 89759
July 1, 2005. 89760

Section 612.33. (A) Except as otherwise provided in division 89761
(B) of this section, the amendments by this act to section 321.24 89762
of the Revised Code provides for or is essential to implementation 89763

of a tax levy. Therefore, under Ohio Constitution, Article II, 89764
Section 1d, the amendments are not subject to the referendum and 89765
go into immediate effect when this act becomes law. 89766

(B) The amendment to division (F) of section 321.24 of the 89767
Revised Code provides for or is essential to implementation of a 89768
tax levy. Therefore, under Ohio Constitution, Article II, Section 89769
1d, the amendment takes effect July 1, 2005. 89770

Section 612.36. (A) Except as otherwise provided in division 89771
(B) of this section, the amendments by this act to section 329.04 89772
of the Revised Code are not subject to the referendum. Therefore, 89773
under Ohio Constitution, Article II, Section 1d and section 1.471 89774
of the Revised Code, the amendments go into immediate effect. 89775

(B) The amendments to divisions (A)(3) to (9) of section 89776
329.04 of the Revised Code are subject to the referendum. 89777
Therefore, under Ohio Constitution, Article II, Section 1c and 89778
section 1.471 of the Revised Code, the amendments take effect 89779
October 1, 2005. If, however, a referendum petition is filed 89780
against the amendments, the amendments, unless rejected at the 89781
referendum, take effect at the earliest time permitted by law that 89782
is on or after the effective date specified in this division. 89783

Section 612.36.03. (A) Except as otherwise provided in 89784
division (B) of this section, the amendments to section 3301.0711 89785
of the Revised Code are subject to the referendum. Therefore, 89786
under Ohio Constitution, Article II, Section 1c and section 1.471 89787
of the Revised Code, the amendments take effect July 1, 2006. If, 89788
however, a referendum petition is filed against the amendments, 89789
the amendments, unless rejected at the referendum, take effect at 89790
the earliest time permitted by law that is on or after the 89791
effective date specified in this division. 89792

(B) The amendments to division (N) of section 3301.0711 of 89793

the Revised Code are not subject to the referendum. Therefore, 89794
under Ohio Constitution, Article II, Section 1d and section 1.471 89795
of the Revised Code, the amendments go into immediate effect. 89796

Section 612.37. (A) Except as otherwise provided in division 89797
(B) of this section, the amendments to section 3314.02 of the 89798
Revised Code are subject to the referendum. Therefore, under Ohio 89799
Constitution, Article II, Section 1c and section 1.471 of the 89800
Revised Code, the amendments go into effect on the ninety-first 89801
day after this act is filed with the Secretary of State. If, 89802
however, a referendum petition is filed against the amendments, 89803
the amendments, unless rejected at the referendum, take effect at 89804
the earliest time permitted by law. 89805

(B) The amendment striking the paragraph immediately 89806
following division (C)(1)(f)(iii) of section 3314.02 of the 89807
Revised Code is not subject to the referendum. Therefore, under 89808
Ohio Constitution, Article II, Section 1d and section 1.471 of the 89809
Revised Code, the amendment goes into immediate effect when this 89810
act becomes law. 89811

Section 612.38. (A) Except as otherwise provided in division 89812
(B) of this section, the amendments by this act to section 3314.03 89813
of the Revised Code are not subject to the referendum. Therefore, 89814
under Ohio Constitution, Article II, Section 1d and section 1.471 89815
of the Revised Code, the amendments go into immediate effect. 89816

(B) The amendment to division (A)(4) and the amendments 89817
adding divisions (A)(25) and (F) of section 3314.03 of the Revised 89818
Code are subject to the referendum. Therefore, under Ohio 89819
Constitution, Article II, Section 1c and section 1.471 of the 89820
Revised Code, the amendments take effect on the ninety-first day 89821
after this act is filed with the Secretary of State. If, however, 89822
a referendum petition is filed against the amendments, the 89823

amendments, unless rejected at the referendum, take effect at the 89824
earliest time permitted by law. 89825

Section 612.38.03. (A) Except as otherwise provided in 89826
division (B) of this section, the amendments by this act to 89827
section 3314.08 of the Revised Code are not subject to the 89828
referendum. Therefore, under Ohio Constitution, Article II, 89829
Section 1d and section 1.471 of the Revised Code, the amendments 89830
go into immediate effect. 89831

(B) The amendments to division (N) of section 3314.08 of the 89832
Revised Code are subject to the referendum. Therefore, under Ohio 89833
Constitution, Article II, Section 1c and section 1.471 of the 89834
Revised Code, the amendments take effect on the ninety-first day 89835
after this act is filed with the Secretary of State. If, however, 89836
a referendum petition is filed against the amendments, the 89837
amendments, unless rejected at the referendum, take effect at the 89838
earliest time permitted by law. 89839

Section 612.39. (A) Except as otherwise provided in division 89840
(B) of this section, the amendments by this act to section 89841
3317.024 of the Revised Code are not subject to the referendum. 89842
Therefore, under Ohio Constitution, Article II, Section 1d and 89843
section 1.471 of the Revised Code, the amendments go into 89844
immediate effect. 89845

(B) The amendment to division (J) of section 3317.024 of the 89846
Revised Code is subject to the referendum. Therefore, under Ohio 89847
Constitution, Article II, Section 1c and section 1.471 of the 89848
Revised Code, the amendment takes effect on the ninety-first day 89849
after this act is filed with the Secretary of State. If, however, 89850
a referendum petition is filed against the amendment, the 89851
amendment, unless rejected at the referendum, takes effect at the 89852
earliest time permitted by law. 89853

Section 612.45. (A) Except as otherwise provided in division 89854
(B) of this section, the amendments by this act to section 3702.51 89855
of the Revised Code are not subject to the referendum. Therefore, 89856
under Ohio Constitution, Article II, Section 1d and section 1.471 89857
of the Revised Code, the amendments go into immediate effect. 89858

(B) The amendment to division (G)(10) of section 3702.51 of 89859
the Revised Code is not subject to the referendum. Therefore, 89860
under Ohio Constitution, Article II, Section 1d and section 1.471 89861
of the Revised Code, the amendments take effect July 1, 2005. 89862

Section 612.48. (A) Except as otherwise provided in division 89863
(B) of this section, the amendments to section 5101.35 of the 89864
Revised Code are subject to the referendum. Therefore, under Ohio 89865
Constitution, Article II, Section 1c and section 1.471 of the 89866
Revised Code, the amendments take effect on the ninety-first day 89867
after this act is filed with the Secretary of State. If, however, 89868
a referendum petition is filed against the amendments, the 89869
amendments, unless rejected at the referendum, take effect at the 89870
earliest time permitted by law. 89871

(B) The amendment by this act to division (A)(3) of section 89872
5101.35 of the Revised Code adding a reference to "5101.461" is 89873
not subject to the referendum. Therefore, under Ohio Constitution, 89874
Article II, Section 1d and section 1.471 of the Revised Code, the 89875
amendment goes into immediate effect. 89876

Section 612.54. (A) Except as otherwise provided in division 89877
(B) of this section, the amendments to section 5111.02 (5111.021) 89878
of the Revised Code are subject to the referendum. Therefore, 89879
under Ohio Constitution, Article II, Section 1c and section 1.471 89880
of the Revised Code, the amendments take effect October 1, 2005. 89881
If, however, a referendum petition is filed against the 89882
amendments, the amendments, unless rejected at the referendum, 89883

take effect at the earliest time permitted by law that is on or 89884
after the effective date specified in this division. 89885

(B) The amendment by this act to division (B) of section 89886
5111.02 (5111.021) of the Revised Code striking the last sentence 89887
of that division (B) is not subject to the referendum. Therefore, 89888
under Ohio Constitution, Article II, Section 1d and section 1.471 89889
of the Revised Code, the amendment takes effect July 1, 2005. 89890

Section 612.57. (A) Except as otherwise provided in division 89891
(B) of this section, the amendments to section 5111.06 of the 89892
Revised Code are subject to the referendum. Therefore, under Ohio 89893
Constitution, Article II, Section 1c and section 1.471 of the 89894
Revised Code, the amendments go into effect on October 1, 2005. 89895
If, however, a referendum petition is filed against the 89896
amendments, the amendments, unless rejected at the referendum, 89897
take effect at the earliest time permitted by law that is on or 89898
after the effective date specified in this division. 89899

(B) The amendment to division (A)(1) of section 5111.06 of 89900
the Revised Code that inserts a reference to section 5111.061 of 89901
the Revised Code is not subject to the referendum. Therefore, 89902
under Ohio Constitution, Article II, Section 1d and section 1.471 89903
of the Revised Code, the amendment goes into immediate effect when 89904
this act becomes law. 89905

Section 612.63. (A) Except as otherwise provided in division 89906
(B) of this section, the amendment renumbering section 5111.88 as 89907
section 5111.97 of the Revised Code is subject to the referendum. 89908
Therefore, under Ohio Constitution, Article II, Section 1c and 89909
section 1.471 of the Revised Code, the renumbering amendment takes 89910
effect October 1, 2005. If, however, a referendum petition is 89911
filed against the renumbering amendment, the renumbering 89912
amendment, unless rejected at the referendum, takes effect at the 89913

earliest time permitted by law that is on or after the effective 89914
date specified in this division. 89915

(B) The amendment to division (B)(2) of section 5111.88 89916
(5111.97) of the Revised Code striking "eighteen" and inserting 89917
"twelve" is not subject to the referendum. Therefore, under Ohio 89918
Constitution, Article II, Section 1d and section 1.471 of the 89919
Revised Code, the amendment goes into immediate effect when this 89920
act becomes law. 89921

Section 612.66. (A) Except as otherwise provided in division 89922
(B) of this section, the amendments to section 5727.84 of the 89923
Revised Code provide for or are essential to implementation of a 89924
tax levy. Therefore, under Ohio Constitution, Article II, Section 89925
1d, the amendments go into immediate effect when this act becomes 89926
law. 89927

(B) The amendments striking divisions (B)(6) and (7) and 89928
(C)(3) from section 5727.84 of the Revised Code are subject to the 89929
referendum. Therefore, under Ohio Constitution, Article II, 89930
Section 1c and section 1.471 of the Revised Code, the amendments 89931
take effect on the ninety-first day after this act is filed with 89932
the Secretary of State. If, however, a referendum petition is 89933
filed against the amendments, the amendments, unless rejected at 89934
the referendum, take effect at the earliest time permitted by law. 89935

Section 612.69. (A) Except as otherwise provided in division 89936
(B) of this section, the amendments to section 5727.85 of the 89937
Revised Code are not subject to the referendum. Therefore, under 89938
Ohio Constitution, Article II, Section 1d and section 1.471 of the 89939
Revised Code, the amendments go into immediate effect when this 89940
act becomes law. 89941

(B) The amendments to section 5727.85 of the Revised Code 89942
that insert new language into division (F), strike "February" and 89943

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 612.69.03. The amendments by this act to section 5739.01 of the Revised Code provide for or are 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. However, the amendment to divisions (HHH) and (III) of the section goes into effect July 1, 2005, and the amendments to division (H)(1)(a)(vi), adding a new division (H)(1)(b), and adding a new division (H)(1)(c)(iv) of the section go into effect January 1, 2006.

Section 612.69.06. The amendments by this act to section 5739.02 of the Revised Code provide for or are 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. However, the amendment to division (B)(18) of the section goes into effect July 1, 2005.

Section 612.69.09. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5739.17 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 89974
take effect on July 1, 2005. 89975

(B) The amendments to division (C) of section 5739.17 of the 89976
Revised Code provide for or are essential to implementation of a 89977
tax levy. Therefore, under Ohio Constitution, Article II, Section 89978
1d, the amendments are not subject to the referendum and go into 89979
immediate effect when this act becomes law. 89980

Section 612.69.12. The amendments by this act to section 89981
5741.02 of the Revised Code provide for or are essential to 89982
implementation of a tax levy. Therefore, under Ohio Constitution, 89983
Article II, Section 1d, the amendments are not subject to the 89984
referendum and go into immediate effect when this act becomes law. 89985
However, the amendment to division (E) of the section goes into 89986
effect January 1, 2006. 89987

Section 612.72. (A) Except as otherwise provided in division 89988
(B) of this section, the amendments by this act to section 5747.01 89989
of the Revised Code provides for or is essential to implementation 89990
of a tax levy. Therefore, under Ohio Constitution, Article II, 89991
Section 1d, the amendments are not subject to the referendum and 89992
go into immediate effect when this act becomes law. 89993

(B) The amendment to division (A)(10) of section 5747.01 of 89994
the Revised Code is subject to the referendum. Therefore, under 89995
Ohio Constitution, Article II, Section 1c and section 1.471 of the 89996
Revised Code, the amendment takes effect on the ninety-first day 89997
after this act is filed with the Secretary of State. If, however, 89998
a referendum petition is filed against the amendment, the 89999
amendment, unless rejected at the referendum, takes effect at the 90000
earliest time permitted by law. 90001

Section 615.03. Except as otherwise specifically provided in 90002

this act, the uncodified sections of law amended or enacted in 90003
this act, and the items of law of which the uncodified sections of 90004
law amended or enacted in this act are composed, are not subject 90005
to the referendum. Therefore, under Ohio Constitution, Article II, 90006
Section 1d and section 1.471 of the Revised Code, the uncodified 90007
sections of law amended or enacted in this act, and the items of 90008
law of which the uncodified sections of law amended or enacted in 90009
this act are composed, go into immediate effect when this act 90010
becomes law. 90011

Section 615.06. Uncodified sections of law amended or enacted 90012
in this act, and items of law contained within the uncodified 90013
sections of law amended or enacted in this act, that are marked 90014
with an asterisk are subject to the referendum. Therefore, under 90015
Ohio Constitution, Article II, Section 1c and section 1.471 of the 90016
Revised Code, the uncodified sections and items of law marked with 90017
an asterisk take effect on the ninety-first day after this act is 90018
filed with the Secretary of State. If, however, a referendum 90019
petition is filed against an uncodified section or item of law 90020
marked with an asterisk, the uncodified section or item of law 90021
marked with an asterisk, unless rejected at the referendum, takes 90022
effect at the earliest time permitted by law. 90023

If the amending and existing repeal clauses commanding the 90024
amendment of an uncodified section of law are both marked with 90025
asterisks, the uncodified section as amended is deemed also to 90026
have been marked with an asterisk. 90027

An asterisk marking an uncodified section or item of law has 90028
the form *. 90029

This section defines the meaning and form of, but is not 90030
itself to be considered marked with, an asterisk. 90031

Section 615.90. If the amendment or enactment in this act of 90032

a codified or uncodified section of law is subject to the 90033
referendum, the corresponding indications in the amending, 90034
enacting, or existing repeal clauses commanding the amendment or 90035
enactment also are subject to the referendum, along with the 90036
amendment or enactment. If the amendment or enactment by this act 90037
of a codified or uncodified section of law is not subject to the 90038
referendum, the corresponding indications in the amending, 90039
enacting, or existing repeal clauses commanding the amendment or 90040
enactment also are not subject to the referendum, the same as the 90041
amendment or enactment. 90042

Section 618.03. The amendment of sections 5112.03 and 5112.08 90043
of the Revised Code are not intended to supersede the earlier 90044
repeal, with delayed effective date, of those sections. 90045

Section 618.06. The General Assembly, applying the principle 90046
stated in division (B) of section 1.52 of the Revised Code that 90047
amendments are to be harmonized if reasonably capable of 90048
simultaneous operation, finds that the following sections, 90049
presented in this act as composites of the sections as amended by 90050
the acts indicated, are the resulting versions of the sections in 90051
effect prior to the effective date of the sections as presented in 90052
this act: 90053

Section 122.74 of the Revised Code as amended by both Am. 90054
Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly. 90055

Section 307.37 of the Revised Code as amended by both Am. 90056
Sub. H.B. 175 and Sub. H.B. 231 of the 125th General Assembly. 90057

Section 307.86 of the Revised Code as amended by both Am. 90058
Sub. H.B. 11 and Sub. H.B. 230 of the 125th General Assembly. 90059

Section 2151.86 of the Revised Code as amended by both Am. 90060
Sub. H.B. 106 and Am. Sub. H.B. 117 of the 125th General Assembly. 90061

Section 2921.13 of the Revised Code as amended by Am. Sub. 90062

H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th General Assembly.	90063 90064
Section 3314.03 of the Revised Code as amended by both Am. Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.	90065 90066
Section 3317.023 of the Revised Code as amended by both Am. Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.	90067 90068
Section 3317.026 of the Revised Code as amended by both Sub. H.B. 129 and Sub. S.B. 200 of the 124th General Assembly.	90069 90070
Section 3704.035 of the Revised Code as amended by both Am. Sub. S.B. 18 and Am. Sub. S.B. 153 of the 120th General Assembly.	90071 90072
Section 4503.571 of the Revised Code as amended by both Am. Sub. S.B. 120 and Am. Sub. S.B. 232 of the 123rd General Assembly.	90073 90074
Section 5739.01 of the Revised Code as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	90075 90076
Section 5739.02 of the Revised Code as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	90077 90078
Section 5739.99 of the Revised Code as amended by both Am. Sub. S.B. 143 and Sub. S.B. 200 of the 124th General Assembly.	90079 90080
Section 5741.02 of the Revised Code as amended by Am. Sub. H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General Assembly.	90081 90082 90083
Section 5743.03 of the Revised Code as amended by both Am. Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly.	90084 90085
Section 5743.99 of the Revised Code as amended by both Am. Sub. S.B. 123 and Am. Sub. S.B. 242 of the 124th General Assembly.	90086 90087
Section 6121.04 of the Revised Code as amended by both Sub. H.B. 601 and Am. Sub. H.B. 628 of the 123rd General Assembly.	90088 90089